

Terms and Conditions

Treasury Management Agreement

Prepared for: Resource Central
Effective date: 1/1/2015

BBVA Compass
Treasury Management Full Agreement
Revised 11/2015

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For questions, please contact BBVA Compass General Counsel.

BBVA Compass Treasury Management Services Agreement

This Services Agreement contains terms and conditions for the Treasury Management Services offered by BBVA Compass. The General Provisions of this Agreement apply to all Treasury Management Services, and other provisions govern specific Treasury Management Services. By signing and submitting a Request for Treasury Management Services to BBVA Compass, you agree to be bound by the General Provisions and the provisions governing each requested service contained in this Services Agreement. You also agree to the Implementation Process described in your Request, including the method by which BBVA Compass will collect and confirm the Service Instructions for each requested service provided to you.

BBVA Compass may change the terms and conditions of services provided to you under this Agreement upon ten (10) days prior written notice to you. Your continued use of the service constitutes your acceptance of the change. As a new service is added to the Treasury Management product line, this Agreement will be updated to include the terms and conditions for that service, and you will be provided with a revised document upon the purchase of that service.

Please review this Services Agreement carefully and retain it for your records. As you add services in the future, they will also be covered by the terms and conditions contained in this Agreement. This Services Agreement and the Non-Consumer Account Agreement serve as the governing documents for your BBVA Compass Treasury Management relationship.

Should you have any questions about this Agreement, or the Non-Consumer Account Agreement, please contact your Relationship Manager or Treasury Management Representative. Thank you for choosing BBVA Compass as your Treasury Management service provider. We appreciate your business and look forward to serving you.

In this Compass Bank Treasury Management Services Agreement (the "Agreement") Compass Bank is referred to as "BBVA Compass" and the customer obtaining services from Compass is referred to as "Company." The specific instructions by which a Treasury Management service will be provided to Company (referred to as the "Service Instructions") are part of and Incorporated into the Agreement.

GENERAL PROVISIONS

1. **Fees.** Company will pay BBVA Compass in immediately available funds when due the fees and charges listed in the then current fee schedule or otherwise chargeable to Company in connection with each Treasury Management Service provided. Notwithstanding anything herein to the contrary, BBVA Compass may change the amount of such fees and charges, or add new fees and charges, after providing Company with at least 10 days notice prior to the effective date of the change or addition. Additionally, Company will pay and reimburse BBVA Compass for all governmental and third party fees or taxes arising out of or related to BBVA Compass' providing Treasury Management Services to Company. Company authorizes and directs BBVA Compass to debit the Company Account (as that term is defined in this Agreement) (a) on or before the 25th of each month for the amount of all such fees then due, and (b) at other times as necessary to pay all other amounts owing from time to time under and as provided for in this Agreement.
2. **Company Account.** Company will at all times maintain with BBVA Compass one or more deposit accounts in the Company's name (each a "Company Account"). Company will at all times maintain with BBVA Compass in the Company Account collected balances sufficient to reimburse BBVA Compass for all items, orders for payment, and other amounts which BBVA Compass pays on Company's behalf or are chargeable to Company in connection with any Treasury Management Service. Each Company Account and all other deposits and other accounts of the Company located at BBVA Compass (or an affiliate of BBVA Compass) shall each be subject to the terms and provisions of all deposit agreements and contracts relating to those accounts, as they may be amended and modified from time to time.
3. **Data Review.** Company has the sole responsibility for confirming the accuracy and validity of all information, data, entries, and processing services prepared and performed by BBVA Compass. Company shall carefully review all reports prepared by BBVA Compass and shall reject in writing incorrect daily reports within 5 working days (i.e., a day other than a Saturday, Sunday, or a federal banking holiday) after receipt and all other reports provided by BBVA Compass within 10 working days after receipt. Company's failure to so reject any report constitutes (a) Company's acceptance of the report, and (b) notwithstanding the terms of Section 5 of these General Provisions, and except as prohibited by law, the release of BBVA Compass from any liability arising under or in connection with the report.
4. **Authorized Persons.** The persons whose names and signatures are set forth on an Authorization Certificate delivered to BBVA Compass by Company at the time Company initially requests a Treasury Management Service covered by this Agreement ("Authorization Certificate") are authorized to request and obtain Treasury Management Services from BBVA Compass. Any Authorized Person shall continue as an Authorized Person until BBVA Compass is notified otherwise in writing by the delivery of a new Authorization Certificate. Any Authorized Person may designate in writing those officers and employees of Company authorized to act on behalf of the Company with respect to specific Treasury Management Services.
5. **Standard of Care; Limitation of Liability; Indemnity.**
 - (a) BBVA Compass agrees to use substantially the same type of procedures and equipment in performing the services requested by Company as BBVA Compass uses in

performing similar services on its own behalf. These standards of care, and BBVA Compass' compliance with any instructions given it by Company, or believed by BBVA Compass to be given it by Company, shall constitute proper, reasonable, and ordinary standards of care.

- (b) Subject to and without limiting any other provision in this

Agreement, or in any other document from time to time entered into between BBVA Compass and Company, BBVA Compass liability to Company for its failure to provide any Treasury Management Service or other service to Company is limited to the amount of liability imposed by applicable law, including, but not limited to, all liability provisions set forth in the Uniform Commercial Code as adopted in the state where BBVA Compass maintains Company's accounts; provided that under no circumstances shall BBVA Compass' liability exceed the amount of actual costs and damages incurred by Company directly as a result of such failure; provided further that BBVA Compass shall not be liable under any circumstances for any consequential, special, punitive, incidental, or similar damages arising from or in connection with the Treasury Management Services to be provided to Company by BBVA Compass.

COMPANY WILL INDEMNIFY AND HOLD BBVA COMPASS, ITS OFFICERS, EMPLOYEES, AGENTS, AFFILIATES, ATTORNEYS, AND CONTRACTORS, HARMLESS FROM ANY CLAIM, LOSS, PENALTY, ASSESSMENT, COST, OR DAMAGE, WHETHER IN CONTRACT OR IN TORT (INCLUDING REASONABLE ATTORNEY'S FEES), AND ARISING OUT OF ANY ERRORS, NEGLIGENCE, ACTION, NONACTION, OR INVOLVEMENT BY COMPANY OR BBVA COMPASS, OR THEIR RESPECTIVE OFFICERS (INCLUDING INDIVIDUALS PORTRAYING THEMSELVES AS OFFICERS), EMPLOYEES, AGENTS, AFFILIATES, CONTRACTORS, AND ATTORNEYS, UNDER THIS AGREEMENT, OR IN CONNECTION WITH THE TREASURY MANAGEMENT SERVICES PROVIDED UNDER THIS AGREEMENT, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THOSE ASSERTED BY THIRD PARTIES FOR REIMBURSEMENT OR DAMAGES AND THOSE WHICH ARISE OUT OF OR UNDER THE ELECTRONIC FUNDS TRANSFER ACT, ANY APPLICABLE STATE ELECTRONIC FUND TRANSFER RULES OR REGULATIONS, OR ANY RULES OR GUIDELINES OF ANY AUTOMATED CLEARING HOUSE.

Actual receipt by BBVA Compass of proper notice or delivery of any information (including stop payment, return, process, dishonor, and similar notices required under this Agreement or any agreement executed by Company from time to time) from Company before the deadline required by BBVA Compass in its sole discretion is an express and condition precedent to BBVA Compass' related obligation to perform any service or to meet any deadline imposed by law, regulation, or any person. Company bears the burden of proof of the time and manner of BBVA Compass' actual receipt of any notice or transmittal of information.

6. **Term; Termination.** Subject to the following provisions, the terms and conditions contained in this Agreement shall continue in effect so long as Company is using or has requested from BBVA Compass a Treasury Management Service; provided, however, that either party shall have the right, upon 30 days written notice to the other, to terminate any or all Treasury Management Services then being provided by BBVA Compass to Company with or without cause, provided that all obligations arising prior to termination shall not be affected by termination. Further, BBVA Compass may terminate any or all existing Treasury Management Services at any time without notice to any party upon the happening of any of the following events or circumstances: (a) Company's violation or breach of any of the terms or conditions contained in this Agreement or in any agreement to provide specific Treasury Management Services;

(b) misrepresentation by Company of any material fact in any statement, report, or representation given or made to BBVA Compass in connection with any Treasury Management Service provided by BBVA Compass to Company; (c) receipt by BBVA Compass of any legal process with respect to any of Company's deposit accounts; (d) Company's business failure, insolvency, or bankruptcy; (e) the default or violation by Company, or any affiliate of Company, in any document, instrument or agreement between BBVA Compass and Company or between BBVA Compass and that affiliate; or (f) BBVA Compass is required to terminate pursuant to any law, regulation or supervisory regulatory agency. All sums Company owes to BBVA Compass for any Treasury Management Service shall be due and payable in full immediately upon the termination of the service. All warranties, indemnities, representations, and covenants made before termination, including, but not limited to, all provisions of Section 5 of these General Provisions, shall survive and be binding and enforceable after termination of Treasury Management Services, and termination of this Agreement or any Service shall not affect the rights or obligations of either party which may have arisen or accrued prior to such termination. Upon termination of any services for any reason, BBVA Compass shall have no further obligations or duties.

7. No waiver. No delay or failure of BBVA Compass to exercise any option or right set forth in this Agreement shall constitute a waiver of that option or right. BBVA Compass' waiver of any right, agreement or option on one occasion shall not constitute or be deemed a waiver as to any future occasion.
8. Representations and Warranties. Company represents, warrants, and covenants to and with BBVA Compass: (a) it is duly organized, validly existing, and in good standing in the state of its organization; (b) the execution, delivery and performance of all documents or agreements provided in connection with any Treasury Management Service are within its powers, have been duly and validly authorized, and do not contravene its charter, by-laws, or any indenture, agreement, undertaking, law, regulation or order binding it; (c) no approval, consent or authorization of any government authority is necessary for Company to obtain any Treasury Management Service from BBVA Compass; and (d) the terms and conditions contained in this Agreement are valid and binding obligations of Company enforceable in accordance with their terms. EXCEPT AS REQUIRED BY LAW, BBVA COMPASS MAKES NO REPRESENTATIONS, WARRANTIES, AGREEMENTS, OR GUARANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION: (i) ANY REPRESENTATIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AS TO ANY ITEMS OR TREASURY MANAGEMENT SERVICES PROVIDED BY BBVA COMPASS TO COMPANY; (ii) ANY WARRANTIES ARISING UNDER THE UNIFORM COMMERCIAL CODE AS ADOPTED IN THE STATE IN WHICH BBVA COMPASS MAINTAINS COMPANY'S ACCOUNTS; (iii) ANY WARRANTIES WITH RESPECT TO COMPLIANCE WITH THE ELECTRONIC FUNDS TRANSFER ACT OR REGULATION E OF THE FEDERAL RESERVE BOARD; (iv) ANY RULE OR REGULATION OF ANY AUTOMATED CLEARING SYSTEM; OR (v) ANY STATE ELECTRONIC FUNDS TRANSFER STATUTE OR REGULATIONS.
9. Arbitration; Actions. Except as permitted in Section 13 of these General Provisions, any controversy or claim arising out of or relating to any Treasury Management Service provided under this Agreement shall be settled by arbitration at a location in the State where BBVA Compass maintains Company's accounts in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof. This agreement to arbitrate shall be specifically enforceable under applicable law in any court of competent jurisdiction. Unless specifically waived in writing, BBVA Compass shall not be deemed to have waived its right to compel arbitration hereunder by institution legal action or taking any other action. Company submits to jurisdiction in the State

where BBVA Compass maintains Company's accounts for any action or cause of action arising out of this Agreement, agrees that venue shall be in a county selected by BBVA Compass in the State where BBVA Compass maintains Company's accounts, and waives any and all rights to object to such venue.

10. Notices. Notices and communications from BBVA Compass to Company regarding any Treasury Management Service may be in writing, postage prepaid by first class mail or hand-delivered, or may be delivered electronically by facsimile or e-mail or, if a Treasury Management Service is provided by access to an Internet website, then by the posting of a notice or communication on the website. Notices and communications from Company to BBVA Compass regarding any Treasury Management Service shall be in writing, postage prepaid by first class mail, or hand delivered.

11. Changes.

BBVA Compass may make changes to the terms and conditions contained in this Agreement at any time from time to time by notice thereof to Company. Such changes shall automatically become effective 10 days after the date of such notice unless rejected by the Company within such 10 day period. If the Company rejects any such change, in writing, then all Treasury Management Services shall automatically terminate. Notwithstanding the foregoing, BBVA Compass may change any term or condition if BBVA Compass, in its sole discretion, determines that the change is necessary (A) to avoid potential loss to BBVA Compass or the Company, or (B) due to circumstances that substantially affect BBVA Compass operations, and in either case the change shall be effective immediately upon delivery of notice to Company, or (ii) to maintain or restore the security of a funds transfer system or deposit account, in which case the change may be made without prior written notice to Company.

Any changes or modifications requested by Company to the Treasury Management Services provided by BBVA Compass are subject to the written approval of BBVA Compass. If BBVA Compass so elects, price changes may be implemented concurrently with the requested changes or modifications. The Company shall reimburse BBVA Compass for all costs and expenses required to implement any such changes or modifications.

12. Eligible Accounts

- (a) Designated Eligible Accounts. BBVA Compass will provide Company with Treasury Management Services through and using the following designated types of Accounts:

- (1) If Company is a BBVA Compass non-consumer commercial customer
 - Management Analysis Checking Account
 - Analyzed Business Interest Checking Account
 - Corporate Interest Checking
 - Corporate Money Market Account
 - Public Funds Analyzed Interest Checking
 - Public Funds Money Market Account
 - Public Funds Interest Checking
 - Corporate Money Market Account
 - Controlled Disbursement Account
- (2) If Company is a customer of BBVA Compass' Correspondent Banking Division:
 - Correspondent Banking Due To Account

Company agrees to maintain one or more of the foregoing accounts consistent with the Treasury

Management Services provided to Company by BBVA Compass.

(b) Other Accounts.

- (1) The following accounts are not designated as Eligible Treasury Management Accounts but are allowed limited Treasury Management Services:

- Business Build to Order Checking
 - Business Interest Checking Account
 - IOLTA Account
- CompassWorks for Business Account ®
- Preferred Money Market for Business
- Business Statement Savings
- Non-consumer Certificates of Deposit and Time Deposits

- (2) BBVA Compass will not provide Treasury Management Services through or using any other type of account provided by BBVA Compass.

Company agrees it will not request that BBVA Compass provide any Treasury Management Services through or using any type of account other than those types of Accounts set forth in Section 12(a) and those accounts with limited Treasury Management Services in 12(b) (1) above.

13. Miscellaneous.

- (a) BBVA Compass is an independent contractor and not Company's agent, partner, or employee.
- (b) BBVA Compass will use reasonable efforts to hold in confidence and not disclose to other than its affiliates, employees, agents and independent contractors all confidential information received by BBVA Compass in the course of rendering its Treasury Management Services except to the extent disclosure is required by legal process or by any regulatory or supervisory agency. The Company acknowledges and agrees that BBVA Compass may employ third-party servants, agents, independent contractors or other persons or entities to perform such service, and that BBVA Compass will not be liable for disclosure by any third-party servants, agents, independent contractors or other persons or entities.
- (c) Specifications, tapes, and programs generated by BBVA Compass in connection with any Treasury Management Service are BBVA Compass' sole property unless otherwise provided in this Agreement. All data, reports, items or other materials which Company is required to furnish or perform, including computer tapes or data, will conform to BBVA Compass computer and other specifications unless waived in writing by BBVA Compass. BBVA Compass is authorized, but not required, to electronically record telephone conversations between BBVA Compass and Company's agents or employees.
- (d) Absent manifest error, the records of BBVA Compass shall be conclusive evidence with respect to the matters governed by this Agreement.
- (e) The terms and conditions set forth in this Agreement constitute entire agreement between the parties, supersede all prior agreements relating to the Treasury Management Services governed by this Agreement, and any other agreements (including but not limited to depository agreements) to the extent that they conflict with any terms herein, and except as provided in Section 11 of these General Provisions shall not be modified nor any

provision waived by BBVA Compass except by a written instrument duly executed by BBVA Compass. Any waiver shall be effective only for the specific purposes, circumstances and duration provided in that waiver. Company acknowledges that, in entering into this Agreement, Company has not relied on any oral promises or on any representations made by BBVA Compass other than those specifically set forth in this Agreement. All captions and headings in this Agreement are included for convenience and reference. These terms and conditions and all Treasury Management Services provided Company by BBVA Compass shall be governed by the laws of the State where BBVA Compass maintains Company's accounts and by applicable federal laws and regulations. These terms and conditions shall be deemed to be amended automatically, without notice to either party, to comply with any statute, regulation, or ruling of any government agency to whose jurisdiction BBVA Compass is subject. All Treasury Management Services may be assigned by BBVA Compass and may be assigned by Company upon BBVA Compass' prior written consent. These terms and conditions shall bind and inure to the benefit of the parties and their representatives, successors, and assigns.

- (f) Company expressly warrants that Company is not a "Consumer" as defined in section 205.2(e) of Regulation E of the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and that Company will use each Treasury Management Service solely for business, and not personal, family or household purposes.
- (g) Each reference herein to a "check" shall include all "items" under and as defined in Section 4-104(a)(9) of the Uniform Commercial Code as adopted in the State where BBVA Compass maintains Company's accounts and all "substitute checks" as defined in the Check Clearing for the 21st Century Act (a/k/a Check 21 Act) and Regulation CC of the Board of Governors of the United States Federal Reserve Board.
- (h) All of BBVA Compass' obligations, responsibilities and covenants set forth in this Agreement, whether express or implied, shall be suspended if at any time BBVA Compass' compliance is prevented by, or is in conflict with, any federal or state law, regulation or rule, the order of any court of competent jurisdiction, acts of God or of the public enemy, war, epidemic, strike, lockout, riot, weather condition, equipment failure or malfunction, material shortage, electric power disruption or shortage, communication failure or other condition or circumstance not wholly controlled by BBVA Compass.
- (i) Nothing in this Agreement nor any course of dealing between the Company and BBVA Compass constitutes a commitment or obligation to lend money or extend credit to the Company or to otherwise advance money to the Company for any reason, including payment of any item contrary to BBVA Compass' published availability schedules.
- (j) The General Provisions set forth in this Agreement apply to any Treasury Management Service obtained by Company from BBVA Compass, whether or not that particular Treasury Management Service is provided for specifically in this Agreement or in other agreements between the Company and BBVA Compass and further apply to any new Treasury Management Service introduced by BBVA Compass and obtained by Company after the date on which this Agreement is delivered to Company.

- (k) **Severability.** If any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable for any reason, such holding shall not invalidate or render unenforceable any other provisions of this Agreement. To the extent permitted by applicable law, the parties hereto waive any provision of law which prohibits or renders unenforceable any provision hereof, and to the extent that such waiver is not permitted by applicable law, the parties intend that such provision be interpreted as modified to the minimum extent necessary to render such provision enforceable.
- (l) **Interpretation.** The parties agree that the parties have carefully reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities be resolved against the drafting party shall not be employed in the interpretation of this agreement. The article and section headings contained in this agreement are for reference purposes only and shall not affect the interpretation of this Agreement.
- (m) **Equitable Relief.** Company acknowledges and agrees that, in the event of a breach or threatened breach of any provision in this Agreement involving Confidential Information or any infringement or misappropriation of any intellectual property rights with respect to the Licensed Products, money damages would be an inadequate remedy and BBVA Compass shall be entitled to seek equitable relief from a court of law, including temporary or permanent injunctive relief.
- (n) **Terminology.** Whenever terms such as "include" or "including" are used in this Agreement, they shall mean "include" or "including", as the case may be, without limiting the generality of any description or word preceding such term. Whenever the expression "satisfactory to BBVA Compass", "in BBVA Compass' judgment" or similar words are used, or BBVA Compass is granted the contractual right to choose between alternatives or to express its opinion, the satisfaction, judgment, choices and opinions are to be made in BBVA Compass' sole and absolute discretion. Whenever the terms "state" or "states" are used in this Agreement, it shall mean one or more of the 50 states that make up the United States of America, the District of Columbia, and/or one or more of the politically organized territories of the United States of America or, if the reference is to a Mexican political entity, the Federal Republic of Mexico and/or one or more of the states thereof.
- (o) **Applicable Law.** This Agreement shall be governed by the laws of the state where we maintain your account or, if we maintain accounts for you in more than one state, the state where the first account with BBVA Compass was opened and applicable federal laws and regulations in effect from time to time
- (p) To the extent there is a conflict in the terms of the Agreement and any other agreement or contract between Company and BBVA Compass, the terms of the Agreement will control.
- (a) **Partial Reconciliation.** Produce a report showing items posted by check number sequence and dates of items, and reconcile report with Company's DDA paid statement for the period.
- (b) **Full Reconciliation.** Using a personal computer diskette, transmission or other magnetic media supplied by Company, (i) balance Company's account(s); (ii) produce a report showing items paid in check number sequence, dates paid, and items outstanding; and (iii) reconcile the report with the Company's statement for the period.
- (c) **Partial Deposit Reconciliation.** Produce a report for the period showing deposits posted, sorted by location sequence and date of deposit, including deposit subtotals for each location sequence.
- (d) **High Order Prefixing.** Produce a report for the period showing items sorted by serial number, location sequence and dates of items, including debit subtotals for each location sequence.
- (e) **Full Combination Reconciliation.** Using a personal computer diskette, transmission or other magnetic media supplied by Company, (i) balance checks and deposits for Company's account(s); (ii) produce a report showing checks and deposits posted in check/deposit slip number sequence, dates posted, and checks and deposits outstanding; and (iii) reconcile the report with the Company's DDA statement for the period.
- (f) **Partial Combination Reconciliation.** Produce a report for the period showing checks and deposits posted by check/deposit slip number sequence and dates of items. Deposits will be sorted by location sequence including deposit subtotals for each location sequence.

AUTOMATED CLEARING HOUSE AUTHORIZATION SERVICES

Upon Company's submission of a request for Automated Clearing House Authorization Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Authorization of ACH Debit Items.** BBVA Compass Automated Clearing House Authorization Services allow Company to (a) authorize the payment of certain pre-defined ACH debit items ("ACH Debit Items") presented for payment against the Company's accounts maintained at BBVA Compass (the "Accounts") by an Originating Depository Financial Institution ("ODFI") for credit to the account of a third-party (the "Debit Originator"), or (b) restrict the payment of any and all ACH Debit Items presented for payment against the Accounts, or (c) restrict the payment of all ACH Debit Items initiated by one or more Debit Originators (together with the services described in Section 2 hereof, collectively the "ACH Authorization Services"). If provided in the Service Instructions Company may, (a) designate to BBVA Compass those ACH Debit Items that Company authorizes BBVA Compass to pay upon presentation for payment against the Accounts (the "Payable Items," or, singularly, a "Payable Item"), or (b) authorize and direct BBVA Compass to return any and all ACH Debit Items presented for payment against the Accounts (the "Restricted Debit Accounts"), or (c) authorize and direct BBVA Compass to return all ACH Debit Items initiated by one or more Debit Originators designated by Company on the Service Instructions (the "Restricted Debit Originators"). With respect to Payable Items, Restricted Debit Accounts, and Restricted Debit Originators, the Company shall provide the information required by BBVA Compass for the Service Instructions. By designating any Payable Items on the Service Instructions, Company authorizes BBVA Compass to pay all Payable Items presented for payment against the Accounts. By designating any Restricted Debit Accounts on the

ACCOUNT RECONCILIATION SERVICES

Upon Company's submission of a request for Account Reconciliation Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees: Account Reconciliation Services. BBVA Compass is authorized and directed by the Company to perform the following reconciliation services for items drawn against Company's demand deposit checking accounts maintained with BBVA Compass ("items") or with respect to deposits made by Company to its checking or deposit accounts maintained with BBVA Compass, as specified and for the period selected by Company from time to time:

Service Instructions, Company authorizes BBVA Compass to return unpaid all ACH Debit Items presented for payment against the Restricted Debit Accounts. By designating any Restricted Debit Originators on the Service Instructions, Company authorizes BBVA Compass to return unpaid all ACH Debit Items presented for payment against the Accounts that are initiated by any Restricted Debit Originators. Company agrees that an item is a Payable Item if the information transmitted by an ODFI to BBVA Compass in connection with the item is substantially consistent with the information provided by Company for the Service Instructions for ACH Authorization Services with respect to that item. Company agrees that an Account is a Restricted Debit Account if the information identifying the Restricted Debit Account transmitted by an ODFI to BBVA Compass is substantially consistent with the information provided by Company for the Service Instructions for ACH Authorization Services with respect to the Restricted Debit Accounts. Company agrees that an ACH Debit Item is deemed to be initiated by a Restricted Debit Originator if the information identifying the Debit Originator of the item transmitted by an ODFI to BBVA Compass in connection with the item is substantially consistent with the information provided by Company for the Service Instructions for ACH Authorization Services with respect to the Restricted Debit Originators. If Company designates to BBVA Compass any Payable Items, Restricted Debit Accounts, or Restricted Debit Originators, BBVA Compass will maintain in the BBVA Compass ACH Authorization Services system a database (the "ACH Authorization Database") which will contain the information received from the Company regarding Payable Items, Restricted Debit Accounts and Restricted Debit Originators. In the event Company wishes to add Payable Items, Restricted Debit Accounts, or Restricted Debit Originators to the ACH Authorization Database from time to time, Company will provide to BBVA Compass complete and accurate input to the ACH Authorization Database by providing information for Payable Items, Restricted Debit Accounts or Restricted Debit Originators on a standard form required by BBVA Compass which contains the information required by BBVA Compass to accurately identify additional (a) Payable Items which are authorized by Company, (b) Restricted Debit Accounts, or (c) Restricted Debit Originators. Upon the presentation of a Payable Item against the Accounts by an ODFI, BBVA Compass will pay the Payable Item so long as collected funds sufficient to pay the Payable Item are maintained in the Accounts at the time that the Payable Item is presented for payment. Upon the presentation of an ACH Debit Item by an ODFI (a) against a Restricted Debit Account, or (b) that was initiated by a Restricted Debit Originator, BBVA Compass will return that ACH Debit Item. **ACH Debit Items presented for payment against the Accounts which have not been designated by the Company as Payable Items, or which are Payable Items for which insufficient collected funds exist to pay the item, or which are presented against Restricted Debit Accounts or initiated by Restricted Debit Originators will be returned to the presenting ODFI. Company acknowledges and agrees that Payable Items that are paid, or ACH Debit Items that are returned, are paid or returned, as the case may be, automatically and systematically without review or intervention by any BBVA Compass employee or agent. Company agrees that BBVA Compass shall have no obligation to review or investigate the contents of any ACH Debit Item presented for payment against the Accounts, whether or not the item is a Payable Item.** Upon its receipt of (a) a form from the Company requesting that Company add information to the ACH Authorization Database with respect to an additional Payable Item, Restricted Debit Account, or Restricted Debit Originator, or (b) written notice from the Company of a request that BBVA Compass delete from the ACH Authorization Database information regarding any Payable Item, Restricted Debit Account or Restricted Debit Originator, BBVA Compass will use its best efforts to add or delete that information to or from the ACH Authorization Database, as the case may be, within a reasonable time of its receipt of the request. Company is solely responsible for the integrity and accuracy of the information it provides to

BBVA Compass for input to the ACH Authorization Database, whether that information is provided at the inception of ACH Authorization Services or at a later date. **If Company provides inaccurate information regarding ACH Debit Items, Restricted Debit Accounts or the identity of Restricted Debit Originators, Company acknowledges that Payable Items may be returned, and unauthorized ACH Debit Items, ACH Debit Items presented to a Restricted Debit Account, or ACH Debit Items initiated by a Restricted Debit Originator may be paid, and the Company shall bear any and all responsibility for any losses or other consequences that may occur in either event. Company waives any claim of wrongful dishonor arising from the return of any Payable Item which is returned due to (a) incorrect or incomplete information given by Company to BBVA Compass regarding the Payable Item, (b) the fact that information for the Payable Item was received by BBVA Compass before BBVA Compass had an adequate time to add the information to the ACH Authorization Database, or (c) the lack of sufficient funds in the Accounts to pay the Payable Item. Further, Company waives any claim of erroneous payment arising from the payment of any otherwise unauthorized ACH Debit Item, any ACH Debit Item presented to a Restricted Debit Account, or any ACH Debit Item initiated by a Restricted Debit Originator which is paid due to (a) incorrect or incomplete information given by Company to BBVA Compass regarding the item, the Restricted Debit Account or the Restricted Debit Originator, as the case may be, or (b) the fact that information for the ACH Debit Item, Restricted Debit Account, or Restricted Originator, as the case may be, was received by BBVA Compass before BBVA Compass had an adequate time to add the information to the ACH Authorization Database.** Company hereby authorizes BBVA Compass to initiate ACH Debit Items for payment against the Accounts (a) to pay fees payable to BBVA Compass that are associated with the Accounts, and (b) in connection with transfers of funds associated with other services provided Company by BBVA Compass, and Company agrees that all of these items are Payable Items.

2. **Authorization of ACH Credit Items.** In addition to services provided in connection with ACH Debit Items, ACH Authorization Services allows Company to (a) authorize the receipt and posting of certain predefined ACH credit items ("ACH Credit Items") presented by an ODFI for credit to the Accounts from the account of a third-party (the "Credit Originator"), or (b) restrict the receipt of any and all ACH Credit Items presented for credit to the Accounts, or (c) restrict the receipt of all ACH Credit Items initiated by one or more Credit Originators. In determining the Service Instructions for ACH Authorization Services, Company may, by providing the information required by BBVA Compass, (a) designate to BBVA Compass those ACH Credit Items that Company authorizes BBVA Compass to accept for credit to the Accounts (the "Credit Posting Items," or, singularly, a "Credit Posting Item"), or (b) authorize and direct BBVA Compass to return any and all ACH Credit Items presented in connection with the Accounts ("Restricted Credit Accounts"), or (c) authorize and direct BBVA Compass to return all ACH Credit Items initiated by one or more Credit Originators designated by Company on the Service Instructions ("Restricted Credit Originators"). With respect to Credit Posting Items, Restricted Credit Accounts and Restricted Credit Originators, the Company shall provide the information required by BBVA Compass for the Service Instructions. By designating any Credit Posting Items on the Service Instructions, Company authorizes BBVA Compass to accept all Credit Posting Items presented for credit to the Accounts. By designating any Restricted Credit Accounts on the Service Instructions, Company authorizes BBVA Compass to return unaccepted all ACH Credit Items presented for credit to the Restricted Credit Accounts. By designating any Restricted Credit Originators on the Service Instructions, Company authorizes BBVA Compass to return unaccepted all ACH Credit Items presented for credit to the Accounts that are initiated by any Restricted Credit Originators. Company agrees that an item is a Credit Posting Item if the information transmitted by an ODFI

to BBVA Compass in connection with the item is substantially consistent with the information provided by Company for the Service Instructions for ACH Authorization Services with respect to that item. Company agrees that an Account is a Restricted Credit Account if the information identifying the Restricted Credit Account transmitted by an ODFI to BBVA Compass is substantially consistent with the information provided by Company for the Service Instructions for ACH Authorization Services with respect to the Restricted Credit Accounts. Company agrees that an ACH Credit Item is deemed to be initiated by a Restricted Credit Originator if the information identifying the Credit Originator of the item transmitted by an ODFI to BBVA Compass in connection with the item is substantially consistent with the information provided by Company for the Service Instructions for ACH Authorization Services with respect to the Restricted Credit Originators. If Company designates to BBVA Compass any Credit Posting Items, Restricted Credit Accounts, or Restricted Credit Originators, BBVA Compass will maintain in the ACH Authorization Database the information received from the Company regarding Credit Posting Items, Restricted Credit Accounts, and Restricted Credit Originators. In the event Company wishes to add Credit Posting Items, Restricted Credit Accounts, or Restricted Credit Originators to the ACH Authorization Database from time to time, Company will provide to BBVA Compass complete and accurate input to the ACH Authorization Database by providing information for Credit Posting Items, Restricted Credit Accounts, and Restricted Credit Originators on a standard form required by BBVA Compass which contains the information required by BBVA Compass to accurately identify additional (a) Credit Posting Items which are authorized by Company, (b) Restricted Credit Accounts, or (c) Restricted Credit Originators. Upon the presentation of a Credit Posting Item for credit to the Accounts by an ODFI, BBVA Compass will accept the Credit Posting Item and post the amount of the item as a credit to the Accounts. Upon the presentation of an ACH Credit Item (a) for credit to a Restricted Credit Account, or (b) that was initiated by a Restricted Credit Originator, BBVA Compass will return that ACH Credit Item. **ACH Credit Items presented for credit to the Accounts which have not been designated by the Company as Credit Posting Items, or which are presented for credit to a Restricted Credit Account, or which are initiated by Restricted Credit Originators will be returned to the presenting ODFI. Company acknowledges and agrees that Credit Posting Items that are accepted, or ACH Credit Items that are returned, are accepted or returned, as the case may be, automatically and systematically without review or intervention by any BBVA Compass employee or agent. Company agrees that BBVA Compass shall have no obligation to review or investigate the contents of any ACH Credit Item presented for payment against the Accounts, whether or not the item is a Credit Posting Item.** Upon its receipt of (a) a form from the Company requesting that Company add information to the ACH Authorization Database with respect to an additional Credit Posting Item, Restricted Credit Account, or Restricted Credit Originator, or (b) written notice from the Company of a request that BBVA Compass delete from the ACH Authorization Database information regarding any Credit Posting Item, Restricted Credit Account or Restricted Credit Originator, BBVA Compass will use its best efforts to add or delete that information to or from the ACH Authorization Database, as the case may be, within a reasonable time of its receipt of the request. Company is solely responsible for the integrity and accuracy of the information it provides to BBVA Compass for input to the ACH Authorization Database, whether that information is provided at the inception of ACH Authorization Services or at a later date. **If Company provides inaccurate information regarding ACH Credit Items, Restricted Credit Accounts, or the identity of Restricted Credit Originators, Company acknowledges that Credit Posting Items may be returned, and unauthorized ACH Credit Items, or ACH Credit Items presented to a Restricted Credit Account, or ACH Credit Items initiated by a Restricted Credit Originator may be accepted, and the Company shall bear any and all**

responsibility for any losses or other consequences that may occur in either event. Company waives any claim of wrongful or erroneous return arising from the return of any Credit Posting Item which is returned due to (a) incorrect or incomplete information given by Company to BBVA Compass regarding the Credit Posting Item, or (b) the fact that information for the Credit Posting Item was received by BBVA Compass before BBVA Compass had an adequate time to add the information to the ACH Authorization Database. Further, Company waives any claim of erroneous acceptance arising from the acceptance by BBVA Compass of any otherwise unauthorized ACH Credit Item, or any ACH Credit Item presented to a Restricted Credit Account, or any ACH Credit Item initiated by a Restricted Credit Originator which is accepted and posted to the Accounts due to (a) incorrect or incomplete information given by Company to BBVA Compass regarding the item, the Restricted Credit Account or the Restricted Credit Originator, as the case may be, or (b) the fact that information for the item, Restricted Credit Account, or Restricted Credit Originator, as the case may be, was received by BBVA Compass before BBVA Compass had an adequate time to add the information to the ACH Authorization Database. Company hereby authorizes BBVA Compass to initiate ACH Credit Items for credit to the Accounts in connection with transfers of funds associated with other services provided Company by BBVA Compass, and Company agrees that all of these items are Credit Posting Items.

3. **Liability.** Company hereby releases BBVA Compass from any claim, demand, loss, liability, or expense arising under, out of, or in connection with the ACH Authorization Services or BBVA Compass' performance under these provisions for ACH Authorization Services, provided such claim, demand, loss, liability or expense has not directly resulted from BBVA Compass' gross negligence or willful misconduct. In no event shall BBVA Compass be liable for any consequential, special, punitive or indirect loss or damage which Company may incur or suffer in connection with its use of the ACH Authorization Services.
4. **Additional Limitation; Indemnity.** Notwithstanding anything contained herein to the contrary, or any other agreement between BBVA Compass and Company, neither BBVA Compass nor any of its suppliers, licensors, service providers or vendors (collectively, including BBVA Compass, the "Providers") shall have any liability for any liabilities, losses, damages, claims, judgments, costs or expenses (collectively, "Damages") that Company asserts or sustains as a result of Company's use of the ACH Authorization Services.

The liability of BBVA Compass or any other Provider for any Damages asserted by Company arising as a result of the acts or omissions of any Provider that shall constitute gross negligence or willful misconduct shall be limited to interest on the funds at issue at the "federal funds rate" paid by BBVA Compass at the close of business on each day such act or omission remains uncorrected; provided, however, if BBVA Compass or such other Provider is unable to recover funds from a person or entity who or which receives such funds as a result of such Provider's acts or omissions that shall constitute gross negligence or willful misconduct and who has no claim to such funds, such Provider shall be liable for Company's actual loss, not to exceed the amount of unrecovered funds to which such unauthorized recipient has no claim, plus interest at the rate described above.

Notwithstanding any other provision herein, neither BBVA Compass nor any other Provider shall have any responsibility for Damages arising, directly or indirectly, from any error, delay or failure to perform any obligation hereunder which is caused by fire, natural disaster, strike, civil unrest, any inoperable communications facilities or any other circumstance beyond the reasonable control of BBVA Compass or such other Provider. In no event shall any Provider be liable to Company or any third party for any indirect, consequential, special, punitive or exemplary damages.

Company shall indemnify, protect and hold BBVA Compass and the Providers and their respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person") harmless from and against any and all Damages imposed upon or incurred by a Provider or in any way relating to the ACH Authorization Services. Company will, at its own expense, defend any action or proceeding brought against any Indemnified Person in connection with such Damages. In addition to the foregoing, all disclaimers and limitations on the liability of BBVA Compass and the obligation of Company to indemnify BBVA Compass, whether hereunder or under any other agreement between BBVA Compass and Company applicable to the ACH Authorization Services shall apply equally to all other Providers with respect to use of, or any transaction initiated through or by use of, the ACH Authorization Services. The obligations of Company to indemnify the Providers hereunder shall survive (a) the termination of the ACH Authorization Services by either Company or BBVA Compass, and (b) the passage of any and all periods of limitation applicable to any and all claims made against the Providers arising from or in connection with the ACH Authorization Services or BBVA Compass' performance hereunder or the performance of any of the Providers with respect to the ACH Authorization Services.

5. **DISCLAIMERS.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE ACH AUTHORIZATION SERVICES ARE PROVIDED FOR COMPANY'S BENEFIT "AS IS" AND "WHERE IS", AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BBVA COMPASS AND THE OTHER PROVIDERS MAKE NO REPRESENTATIONS OR WARRANTIES AND DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO THE ACH AUTHORIZATION SERVICES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BBVA COMPASS DOES NOT WARRANT THAT THE OPERATION OF THE ACH AUTHORIZATION SERVICES WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM ANY OTHER LIMITATIONS. BBVA COMPASS DOES NOT MAKE ANY REPRESENTATION REGARDING THE RESULTS OF THE USE OF THE ACH AUTHORIZATION SERVICES IN TERMS OF ITS CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE.

6. **Company's Representations and Warranties.** Company represents and warrants that (a) each ACH Debit Item for which Company authorizes payment against the Accounts, and (b) each ACH Credit Item for which Company authorizes credit to the Accounts fully satisfies and complies with all applicable requirements of all applicable laws and regulations. Company expressly warrants (a) that Company is not a "Consumer" as defined in Section 205.2(e) of Regulation E promulgated by the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and (b) that all Payable Items and all Credit Posting Items are for commercial purposes, and not for personal or household purposes.

7. **Termination.** BBVA Compass may terminate the ACH Authorization Services with respect to Company for any reason by giving Company prior written notice of termination at least thirty (30) days prior to the date on which BBVA Compass intends to terminate the ACH Authorization Services; provided, however, that if BBVA Compass believes, in its discretion, (a) that a Payable Item or a Credit Posting Item, as the case may be, has been returned due to incorrect or incomplete information given by Company to BBVA Compass regarding the Payable Item or Credit Posting Item, (b) an otherwise unauthorized ACH Debit Item has been paid or an otherwise unauthorized ACH Credit Item has been accepted due to incorrect or incomplete information given by Company to BBVA Compass regarding the item, (c) BBVA Compass is unable to pay a Payable Item due to the lack of sufficient funds in the Accounts to pay the Payable Item, or (d) there exists facts or circumstances that support the reasonable conclusion that (i) BBVA Compass or Company is or

may be subject to losses for fraud, other illegal activity, mistake, negligence, or the communication of erroneous information arising from the actions of Company or any third party, including Company's employees or agents, (ii) Company may be unable in any respect to comply with these provisions for ACH Authorization Services, BBVA Compass may terminate the ACH Authorization Services with respect to Company immediately and without notice. In the event BBVA Compass terminates the ACH Authorization Services with respect to Company immediately in accordance with the terms of this Section 8, BBVA Compass shall use reasonable efforts to communicate notice of the termination to Company promptly, and will thereafter provide written confirmation of the termination if the initial notice of termination was not communicated in writing. BBVA Compass may require Company to execute additional documents or agreements to continue its use of the ACH Authorization Services. The terms and provisions of Sections 3, 4, and 5 hereof shall survive the termination of the ACH Authorization Services.

8. **ACH Rules.** Company acknowledges that with respect to the ACH Authorization Services, under the current Operating Rules of the National Automated Clearing House Association (the "NACHA Rules"), BBVA Compass is a Receiving Depository Financial Institution. Company further acknowledges that the NACHA Rules apply to all ACH Debit Items and ACH Credit Items subject to these ACH Authorization Services provisions, including Payable Items and Credit Posting Items.

AUTOMATED CLEARING HOUSE PREPAID SERVICES

Upon Company's submission of a request for Automated Clearing House Prepaid Services ("ACH Prepaid Services") and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Definitions.** For purposes of the services described in this section, the following terms shall have the designated meanings:
 - (a) "Account" means the Company's account, as well as any master or related accounts automatically linked to that account, that Company has designated as the account from which BBVA Compass shall debit for Entries to be prepaid under this Agreement.
 - (b) "Business Day" means each day that the Federal Reserve Bank's Automated Clearing House ("ACH") systems for transmitting Entries are open for processing and BBVA Compass' offices are open for business.
 - (c) "Collected Funds" means (a) funds in the Account for which BBVA Compass either has received final settlement or has posted a temporary credit or debit in anticipation of final settlement, (b) funds available to Company from a line of credit that may be drawn upon and swept into the Account on an automated basis, and (c) funds available to Company from an investment account that may be drawn upon and swept into the Account on an automated basis. Funds otherwise available from a line of credit or investment account that are or may be accessed on a manual sweep basis are not Collected Funds for the purposes of this section.
 - (d) "Corrected Entry" means an Entry submitted to correct an Incorrectly Formatted Entry.
 - (e) "Entry" or "Entries" means an ACH entry file, including any batches contained within a file, submitted by Company to BBVA Compass for processing of the services under this section.

- (f) "Entry Window" means those specific times in each Business Day during which BBVA Compass may collect and process Entries via its ACH systems.
 - (g) "Fed" means the Federal Reserve Bank, to which all Entries for recipients to be paid through other financial institutions must be sent.
 - (h) "Incorrectly Formatted Entry" means an Entry for which the ACH file, as determined by BBVA Compass in its sole discretion, fails to conform to the requirements of any and all applicable NACHA Rules.
 - (i) "In-Process Entries" means the aggregate dollar amount of all credit or debit Entries initiated by Company and in process on any date for which settlement has not occurred with respect to credit Entries, or the applicable period for the return of items has not expired with respect to debit Entries.
 - (j) "Intended Transmission Date" means the last date on which BBVA Compass may transmit an Entry to the Fed in order for the Entry to settle with the recipient on the Requested Settlement Date.
 - (k) "Last Fed Entry Window" means the last Entry Window during which BBVA Compass may transmit Entries to the Fed. This Entry Window currently is scheduled for 6 PM Central Time.
 - (l) "Overlimit Prepaid Entry" means an Entry that would cause the aggregate amount of all Entries submitted for services under this section to exceed the Prepaid Entry Settlement Limit.
 - (m) "Prepaid Entry Settlement Limit" means the maximum aggregate amount of all In-Process Entries initiated by Company but not yet settled that BBVA Compass will permit to be outstanding for services under this section at any given time. BBVA Compass has separately communicated the Prepaid Entry Settlement Limit to Company in writing, and may increase or decrease this Limit by written notice to Company at any time.
 - (n) "Requested Settlement Date" means the date on which Company initially requests an Entry to settle with its recipient.
2. **Prepayment for Entries.** Company authorizes BBVA Compass, immediately upon BBVA Compass' receipt of any Entry, to debit the Account for the Collected Funds required by that Entry. Company understands that, because of the automated systems used to provide ACH services, BBVA Compass automatically will debit the Account for that Entry, even if the Entry subsequently will be suspended, as described in Section 5 regarding Incorrectly Formatted Entries, Section 6 regarding Entries that contain an ACH debit file, batch or item, or Section 7 regarding Overlimit Prepaid Entries and In-Process Entries. Company agrees that, whenever Company submits an Entry to BBVA Compass for processing and transmission, Company must have Collected Funds in the Account in an amount equal to or greater than the Entry, or, if more than one Entry is submitted, the aggregate amount of the submitted Entries. Company understands that BBVA Compass may debit the Account either by actually deducting funds from the Account or by placing a hold on funds in the Account. In either case, once BBVA Compass has debited the Account for the funds required by the Entry, those funds will not be available to Company for any other purpose, including the payment or settlement of other items from that Account.
 3. **Timing for Prepayment of Entries.** Company acknowledges that BBVA Compass transmits Entries to the Fed only during certain Entry Windows. Company agrees that, regardless of Company's requests or instructions to BBVA Compass, BBVA Compass has no obligation to transmit any Entry to the Fed on

a particular day unless there are Collected Funds in the Account for that Entry before the Last Fed Entry Window for that day. Company agrees that, in the event the Collected Funds required for any Entry do not become available in the Account until after the Last Fed Entry Window on the Intended Transmission Date, BBVA Compass is authorized to debit the Account for the Collected Funds required for that Entry on the Intended Transmission Date, even though BBVA Compass may not transmit the Entry until an Entry Window on the next Business Day.

Company acknowledges and agrees that, if the Collected Funds required for any Entry do not become available in the Account until after the Last Fed Entry Window on the Intended Transmission Date, then the Entry may not settle with its intended recipient until a date after the Requested Settlement Date.

4. **Insufficient Collected Funds.** If Company does not have sufficient Collected Funds in the Account for any Entry, as required by Section 2 above, BBVA Compass has no obligation to process or to transmit that Entry, and may suspend processing of that Entry. If Company has submitted more than one Entry, BBVA Compass may process and transmit only those Entries for which Company has Collected Funds, as provided in Section 9. If BBVA Compass receives an Entry for which there are insufficient Collected Funds in the Account, BBVA Compass may attempt to notify Company, but Company agrees that BBVA Compass shall have no liability to Company for failure to notify Company regarding the insufficiency of Collected Funds. BBVA Compass will maintain the suspended Entry in BBVA Compass' ACH system until the Requested Settlement Date, checking at each Entry Window to see if sufficient Collected Funds have become available in the Account for that Entry. If sufficient Collected Funds are not available in the Account for the suspended Entry by 9 PM Central Time on the Requested Settlement Date, that Entry automatically will be deleted from BBVA Compass' ACH system.

Company acknowledges and agrees that, if Company submits an Entry for which there are insufficient Collected Funds in the Account at the time of submission, then

- (a) **The Entry may be deleted from BBVA Compass' ACH system and never settle with its intended recipient, or**
- (b) **Even if Collected Funds should become available in the Account at a later time, the Entry may not settle with its intended recipient until a date after the Requested Settlement Date.**

5. **Incorrectly Formatted Entries.** Company agrees to submit each Entry to BBVA Compass via an ACH file that conforms to the requirements of any and all applicable NACHA Rules. Company agrees that BBVA Compass has no obligation to process or to transmit any Incorrectly Formatted Entry and BBVA Compass may suspend that Entry, even if Company has Collected Funds available in the Account for that Entry and BBVA Compass already has debited the Account for those Funds. If BBVA Compass receives an Incorrectly Formatted Entry, BBVA Compass may attempt to notify Company regarding the suspension and the nature of the Incorrectly Formatted Entry's formatting deficiencies, but Company agrees that BBVA Compass shall have no duty to correct the formatting and no liability to Company for failure to provide this notice.

Company understands that any hold on Collected Funds covered by an Incorrectly Formatted Entry will remain until earlier of: (i) the Entry Window occurring after Company has submitted to BBVA Compass an authorization to delete the Incorrectly Formatted Entry, and after BBVA Compass has had a reasonable period of time to act on that authorization; or (ii) BBVA Compass' completion of nightly system processing on the Requested Settlement Date.

Company agrees that, in order to correct an Incorrectly Formatted Entry, Company must: (A) submit authorization to delete the Incorrectly Formatted Entry to BBVA Compass, which shall cause BBVA Compass to initiate in a subsequent Entry Window a credit to the Account for the amount of Collected Funds previously debited for the Incorrectly Formatted Entry; and (B) submit a Corrected Entry to BBVA Compass. Company acknowledges that, if BBVA Compass receives the Corrected Entry before receiving the authorization to delete the Incorrectly Formatted Entry or if BBVA Compass receives both the Corrected Entry and the authorization to delete during the same Entry Window, the Corrected Entry will be processed first, and the Collected Funds required for the Corrected Entry will be debited from the Account before the amount of Collected Funds previously debited for the Incorrectly Formatted Entry can be credited the Account.

BBVA Compass makes no representation or warranty with respect to the amount of time that may pass before a credit posts to Company's Account for the Incorrectly Formatted Entry. Company acknowledges that, depending on when BBVA Compass receives the authorization to delete the Incorrectly Formatted Entry, the credit to the Account for the Incorrectly Formatted Entry may not be posted until the next Business Day following Company's submission of that authorization.

Company acknowledges and agrees that, because of the automated systems used to provide ACH services:

- (a) **Unless Company has the Collected Funds required for both an Incorrectly Formatted Entry and a Corrected Entry in its Account at the time Company submits the Corrected Entry, the Corrected Entry may not be transmitted until the credit for the Collected Funds debited in connection with the Incorrectly Formatted Entry is posted to the Account; and**
- (b) **If Company submits an Incorrectly Formatted Entry, then: (i) that Entry may be deleted from BBVA Compass' ACH system and never settle with its intended recipient, or (ii) even if Company corrects sends a Corrected Entry, that Entry may not settle with its intended recipient until a date after the original Requested Settlement Date.**

6. **Entries for ACH Prepaid Services May Not Contain Debit Files, Batches or Items.** Company agrees to include only ACH credit files, batches and items within an Entry submitted for ACH Prepaid Services. Company agrees that, if any prepaid Entry submitted for ACH Prepaid Services contains an ACH debit file, batch or item, BBVA Compass has no obligation to process or to transmit that Entry and BBVA Compass may suspend that Entry, even if Company has Collected Funds available in the Account for that Entry and BBVA Compass already has debited those Collected Funds from the Account. Company understands that, if Company wishes to submit ACH debit items, Company first must obtain BBVA Compass' permission and the submissions of those debit items will be governed by the ACH Authorization Services provisions of this Agreement, including applicable account set-up forms, service instruction forms and user guides.

If BBVA Compass receives an Entry that contains an ACH debit file, batch or item, BBVA Compass may attempt to notify Company regarding the suspension of that Entry, but Company agrees that BBVA Compass shall have no duty to correct the Entry by deleting the ACH debit file, batch or item, and no liability to Company for failure to provide this notice.

Company understands that any hold on Collected Funds covered by an Entry that contains an ACH debit file, batch or item will remain until earlier of: (i) the Entry Window occurring after Company has submitted to BBVA Compass an authorization to delete the Incorrectly Formatted Entry, and after BBVA Compass has had a reasonable period of time to act on

that authorization; or (ii) BBVA Compass' completion of nightly system processing on the Requested Settlement Date.

Company acknowledges that, if Company submits another Entry to replace an Entry that contains an ACH debit file, batch or item, and BBVA Compass receives the replacement Entry before receiving Company's authorization to delete the original Entry or BBVA Compass receives both the replacement Entry and the authorization to delete during the same Entry Window, the replacement Entry will be processed first, and the Collected Funds required for the replacement Entry will be debited from the Account before the amount of Collected Funds debited for the original Entry can be credited to the Account.

BBVA Compass makes no representation or warranty with respect to the amount of time that may pass before a credit posts to Company's Account upon the deletion of any Entry. Company acknowledges that, depending on when BBVA Compass receives the authorization to delete an Entry, the credit to the Account for the deleted Entry may not be posted until the next Business Day following Company's submission of that authorization.

Company acknowledges and agrees that, because of the automated systems used to provide ACH services, if Company submits any Entry that contains an ACH debit file, batch or item, then:

- (a) **The Entry may be deleted from BBVA Compass' ACH system and never settle with its intended recipient; and**
- (b) **The Entry may not settle with its intended recipient until a date after the original Requested Settlement Date.**

7. **Overlimit Prepaid Entries; Entries in Excess of Prepaid Entry Settlement Limit.** Company agrees that BBVA Compass has no obligation to process or to transmit an Overlimit Prepaid Entry. BBVA Compass will treat each submission of an Overlimit Prepaid Entry as Company's request for approval of an increased Prepaid Entry Settlement Limit, which BBVA Compass may grant or deny at BBVA Compass' sole discretion. If Company submits an Overlimit Prepaid Entry, BBVA Compass may suspend the Overlimit Prepaid Entry and any or all In-Process Entries, even if Company has Collected Funds available in the Account for the Overlimit Prepaid Entry and the In-Process Entries, and BBVA Compass already has debited Collected Funds from the Account for any or all of those Entries. For each Entry suspended because Company's In-Process Entries exceed the Prepaid Entry Settlement Limit, BBVA Compass will evaluate Company's request for an increased Prepaid Entry Settlement Limit and notify Company as promptly as practicable, but in no event later than two (2) business days after suspending the Entry, whether BBVA Compass will: (i) process and transmit that Entry; or (ii) reject that Entry and credit the Account for the amount of that Entry.

Company acknowledges and agrees that, because of the automated systems used to provide ACH services, if Company submits any Overlimit Prepaid Entry, then:

- (a) **The Overlimit Prepaid Entry and any related In-Process Entry may be suspended and BBVA Compass will determine whether to approve the processing of all of those Entries; and**
- (b) **Even if BBVA Compass determines to approve the processing of Entries in excess of Company's Prepaid Entry Settlement Limit, the Overlimit Prepaid Entry and related In-Process Entries may not settle on the Requested Settlement Date unless Company has allowed an additional two (2) business days for processing those Entries.**

8. **Reversing Erroneous Files, Batches or Items.** If Company sends an erroneous file, batch or item, Company, must contact BBVA Compass to request BBVA Compass to initiate a reversal of that file, batch or item.
9. **Multiple Entries.** If Company submits multiple Entries during a single Entry Window, BBVA Compass may process those Entries in any order as determined by BBVA Compass in its sole discretion. If there are insufficient Collected Funds in the Account to pay any Entry, BBVA Compass may suspend that Entry, as provided in Section 4 above, and process any remaining Entries. If Company submits one or more additional Entries while a previous Entry remains suspended, BBVA Compass will process the additional Entries, and then will re-process each suspended Entry to determine whether there are sufficient Collected Funds in the Account for that Entry.
10. **Scope of ACH Prepaid Services.** Company acknowledges that the ACH Prepaid Services provisions of this Agreement covers only ACH credit entries, and that the ACH Prepaid Services provisions of this Agreement do not apply to the processing and transmission of ACH debit files, batches or items, which are governed by the ACH Authorization Services provisions of this Agreement, including applicable account set-up forms, service instruction forms and used guides.
11. **Release; Indemnity.** Notwithstanding any other provision of this Agreement, or any other agreement between BBVA Compass and Company, Company hereby releases BBVA Compass, its suppliers, licensors, service providers or vendors (collectively, including BBVA Compass, the "Providers") from and agrees to indemnify the Providers for and against any liabilities, losses, damages, claims, judgments, costs or expenses incurred by or asserted against either the Providers or Company that arise from or are related to Company's submission of: (a) any Entry for which there are insufficient Collected Funds at the time of submission; (b) any Incorrectly Formatted Entry, (c) any prepaid Entry submitted under this Agreement that contains an ACH debit file, batch or item, or (d) any Entry that later is suspended for any other reason, as provided in the ACH Authorization Services provisions of this Agreement.
12. **Additional Representations; Warranties and Covenants.** Company represents and warrants that each electronic communication Company submits to BBVA Compass, including without limitation each Entry, shall comply with the NACHA Rules and all applicable law.
13. **Termination.** BBVA Compass may terminate the ACH Prepaid Services at anytime without notice to Company or any other person if, on three (3) or more separate dates, Company submits any Entry for which there are insufficient Collected Funds in the Account at the time of submission.

AUTOMATED CLEARING HOUSE SERVICES

Upon Company's submission of a request for Automated Clearing House Services ("ACH Services") and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Definitions.** In addition to the capitalized terms defined elsewhere in this Agreement the following terms shall have the following meanings:
 - (a) "Account" means any account at BBVA Compass owned by Company, whether a deposit, clearing, investment, special, or general account, into which or from which Company requests or authorizes Funds to be transferred.
 - (b) "Customer" means the person, entity or other organization holding the account at a Participating Depository Institution to which an Entry relates. The term "Customer" includes,

without limitation, Company's customers and the employees of those customers, Company's employees and, with respect to the concentration of Funds, Company and its affiliates.

- (c) "Designated Persons" at Company shall mean the individuals designated by an Authorized Person (or by a systems manager designated by an Authorized Person) to BBVA Compass in writing who shall be the Designated Persons for purposes of this Agreement.
- (d) "Entry" or "Entries" mean an electronic transfer of Funds to Company's accounts from third party accounts or from Company's accounts to third party accounts and for automatic deposit programs.
- (e) "Entry Settlement Limit" means the maximum aggregate amount of In-Process Entries permitted to be outstanding at any time, which amount shall be separately communicated to Company by BBVA Compass in writing from time to time.
- (f) "Funds" means Company's funds held at BBVA Compass or another financial institution which are available for transfer under this Agreement, whether held in the form of investments, instruments, or balances.
- (g) "In-Process Entries" means the aggregate dollar amount of all credit or debit Entries initiated by Company and in process on any date for which settlement has not occurred with respect to credit Entries, or the applicable period for the return of items has not expired with respect to debit Entries.
- (h) "Overlimit Entry" means an Entry the amount of which would cause the aggregate amount of In-Process Entries to exceed the Entry Settlement Limit.
- (i) "Participating Depository Financial Institutions" means, collectively, BBVA Compass and all other financial institutions holding accounts of Company and Customers which are accessible through an applicable regional clearing house association.
- (j) "Rules" mean the operating rules and operating guides of the applicable regional clearing house association and the National Automated Clearing House Association ("N.A.C.H.A.").
- (k) "Settlement Date" means, with respect to any Entry, the date on which such Entry is reported to the account of BBVA Compass by the applicable Federal Reserve Bank in accordance with the Rules.
- (l) "Software" means the computer software used in connection with transfers made under this Agreement. All capitalized terms not defined in this Agreement shall have the meanings set forth in the Rules.

2. **Transfer Services Authorization.** Company authorizes and directs BBVA Compass upon a Designated Person's request and as otherwise permitted by this Agreement, to transfer Funds of Company, by automated clearing house, for payment directly to Company or to any third party designated by the Designated Person. Company further authorizes and directs BBVA Compass to concentrate its Funds to or from all sources from which Funds are available for transfers made under this Agreement. In connection with the foregoing, BBVA Compass agrees to process Entries. Company shall be responsible for generating, accepting, and authorizing all Entries and delivering the same to BBVA Compass in the form specified in this Agreement and otherwise in accordance with these terms. BBVA Compass shall not be obligated at any time to transfer from any Account any amount in excess of the collected balance on deposit in the Account at the time of the request or time of transfer. BBVA Compass shall have the right, but shall

not be obligated, to refuse any transfer for the purpose of determining whether Company has authorized the transfer and shall incur no liability for any delay caused by its determination.

3. **Obligations of Company.** Company shall provide all items specified in this Agreement, and any additional items reasonably requested by BBVA Compass, in a complete, accurate, and timely manner, and in the form specified by BBVA Compass. Company shall provide, at its expense, all magnetic tapes, electronic equipment, and other media required in order to satisfy the media and format requirements required by BBVA Compass from time to time.

- (a) **Signed Authorization.** Prior to the initiation of the first Entry to an Account, Company will execute on its own behalf and will obtain completed and duly executed written authorization agreements ("Authorization Agreements") from its Customers that desire preauthorized electronic transfers to or from their accounts with Participating Depository Financial Institutions ("Customer Accounts"). The Authorization Agreements shall authorize Company to initiate Entries with respect to its Customers' Accounts. The Authorization Agreements shall be in a form that complies with the Rules, Regulation E of the Board of Governors of the United States Federal Reserve Board, the Electronic Funds Transfer Act, and all other applicable federal and state laws and regulations. Company agrees to provide a copy of the Authorization Agreement to the Customer at the time it is executed. Company agrees to retain and maintain the original or a microfilm or other copy of the Authorization Agreement and its records relating to the Authorization Agreement as required by the Rules. Without limiting any term or provision of this Agreement, Company shall indemnify and hold BBVA Compass harmless for its failure to comply with the terms of the preceding sentence. Upon request of BBVA Compass, an Originating Depository Financial Institution, or a Receiving Depository Financial Institution, Company shall promptly furnish an original or copy of the Authorization Agreement to the requesting party. If the Customers' Authorization Agreements are changed, Company shall not initiate any Entries to or from those Customers' Accounts, except in accordance with the Authorization Agreement as changed. Company shall not initiate any Entries to or from any Customers' Accounts after expiration, termination, or cancellation of those Customers' Authorization Agreements. Company agrees to release and hold harmless BBVA Compass from and against any loss, cost, demand, action or cause of action arising from any dispute between Company and any Customer with respect to any Authorization Agreement.
- (b) **Regularly Scheduled Debit Entries.** Company shall comply in all respects with the requirements of the Rules and all state and federal laws and regulations, including notification to Customers (i) if the amount of any debit Entry differs from that of the next previous debit Entry relating to the same Authorization Agreement or the preauthorized amount or range of amounts; (ii) if any change is made by Company to the date on which a debit entry is scheduled to be transferred from a Customer's account; or (iii) under any other circumstances required under the Rules.
- (c) **Form and Format.** All Entries shall be in the form of an unbalanced file. As used in this paragraph, an unbalanced file means an Entry that contains only the originating items for that Entry without any corresponding offset or settlement transaction. All Prenotifications and Entries shall be furnished to BBVA Compass prior to the opening of business on the applicable Settlement Date in computer readable media as provided under the Rules, and in the record format specified by BBVA Compass from time to time. BBVA Compass may reject any Entry which BBVA Compass determines in its sole discretion not to be in

compliance with its then applicable media and format requirements, the Rules, any federal or state laws or regulations, or the terms and conditions of this Agreement. The parties agree that BBVA Compass has no responsibility to determine whether Company has complied with any federal or state law or regulation.

- (d) **Delivery.** Company shall be solely responsible for transporting, transmitting, or delivering to the delivery point, by the times and on the dates specified by BBVA Compass, all Entries, Entries files, and other data, computer tapes, information, instruments, and documents to be supplied to BBVA Compass in connection with ACH Services. BBVA Compass may reject any Entry determined by BBVA Compass, in its sole discretion, to have been submitted after or before the time required by any applicable schedule or deadline.
- (e) **Other Duties.** All Designated Persons shall be trained personnel familiar with the Software and Rules and procedures described in this Agreement and with the ACH Originators Handbook by N.A.C.H.A. (Company shall be responsible for providing necessary training).
- (f) **Limitations.** Company agrees that BBVA Compass will not process an Overlimit Entry. BBVA Compass will suspend any Overlimit Entry submitted by Company and may, following its receipt of an Overlimit Entry, suspend all In-Process Entries. Company acknowledges that any Overlimit Entry or other In-Process Entries suspended by BBVA Compass will not settle on their scheduled Settlement Date. If Company wishes to initiate an Entry that would cause the amount of In-Process Entries to exceed the Entry Settlement Limit, Company may submit to BBVA Compass its request to initiate an Entry that otherwise would be an Overlimit Entry. Company must submit its request at least two (2) business days prior to the date on which Company wishes to initiate the Entry that otherwise would be an Overlimit Entry. BBVA Compass may require from Company financial or other information in connection with BBVA Compass' consideration of the request. BBVA Compass may grant or deny Company's request at its sole discretion. In addition to the foregoing, BBVA Compass generally reserves the right to limit the nature and amount of the preauthorized debit/credit Entries processed under this Agreement or to refuse to process any debit/credit Entries under this Agreement if, in BBVA Compass' sole judgment (i) there is reasonable cause to believe that any Entry will be returned or will not settle in the ordinary course of the transaction for any reason, (ii) to do otherwise would violate any limit set by the applicable clearing house association or any governmental authority or agency to control payment system risk, or (iii) a preauthorized credit Entry or the return of a preauthorized debit Entry would create an overdraft of Company's Accounts. If any of the foregoing actions are taken by BBVA Compass with respect to a particular preauthorized debit/credit Entry, BBVA Compass will notify Company as promptly as practicable, but in no event later than two (2) business days after its decision.
- (g) **Providing Information Upon Request.** Within five (5) business days of BBVA Compass' request, Company shall provide to BBVA Compass all information necessary to respond to any inquiries from N.A.C.H.A. about Company or Company's WEB Entries.
- (h) **Prohibited Entries.** Notwithstanding any provisions of this Agreement to the contrary, Company agrees that it will not act as a Third-Party Sender (as defined in the Rules) to initiate any Entry on behalf of another party unless BBVA Compass has agreed Company may do so, and Company has entered into the Amendment to this Agreement for ACH Services By Third-Party Senders.

- (i) Company also agrees to permit Compass, its regulators and/or agents to examine Company's books, records, practices and systems to confirm that Company maintains the security practices and procedures required by this Agreement to protect the financial information Company obtains from Customers and to verify Company's ongoing compliance with the NACHA rules. Any such examination will be conducted during normal business hours upon written notice to Company, which agrees to cooperate fully by providing Compass with access to reports of audits, tests and/or other evaluations of information security policies and procedures conducted in the ordinary course of Company's business.
4. **Scope of BBVA Compass' Services.** If the Entries comply with the Rules and requirements of this Agreement, BBVA Compass will process and transmit the Entries to the Participating Financial Depository Institutions, subject to the Rules. BBVA Compass has no obligation to act on, correct, reverse, adjust, or stop payment or posting of Entries or Entry data that does not comply with the requirements or deadlines of BBVA Compass or the Rules. BBVA Compass has no obligation to detect errors with respect to any Entry. However, if BBVA Compass detects an error with respect to a Entry, BBVA Compass will attempt to give Company notice of the error, and Company agrees to furnish to BBVA Compass corrections promptly via the Software or as BBVA Compass shall direct. If Company discovers that any Entry is in error, Company immediately shall give telephonic notice to BBVA Compass of the complete nature of the error and Entries affected, confirmed immediately thereafter in writing ("Company Error Notice"). Company has no right to reverse, adjust or stop payment or posting of any Entry after the Entry has been transmitted by BBVA Compass or subsequent to any earlier time as the Rules or BBVA Compass may prescribe from time to time, except in accordance with procedures contained in the Rules, or any other applicable agreement.
- BBVA Compass has no obligation to determine whether the recipient identified in any Entry, whether submitted alone or included within any batch of Entries, is the accountholder for the account to or from which funds are to be transferred. If any Entry contains any inconsistent information or other discrepancy regarding the name of the intended recipient and the account to or from which the funds are to be transferred, BBVA Compass shall make the transfer on the basis of the account number, even if that number identifies an account held by a person or entity other than the named recipient.
5. **Payment.**
- (a) **Credit Entries.** BBVA Compass reserves the right to require that Company pay BBVA Compass in immediately available funds at the time of transmittal the amount of each credit Entry submitted by Company.
- (b) **Debit Entries.** BBVA Compass shall on the applicable Settlement Date credit the Account with the amount of each debit Entry transmitted to BBVA Compass by its Automated Clearing House. In the event any Entry is properly returned by a Receiving Depository Financial Institution after BBVA Compass has provided credit, Company shall, upon demand, repay BBVA Compass the amount of the returned Entry or Depository Transfer Check.
- (c) **Deletion/Reversal.** Actual receipt by BBVA Compass of proper notice or delivery of any information (e.g., stop payment, return, processing, dishonor and similar notices required by this Agreement, the Rules, or any other instrument) from Company before the deadline required by BBVA Compass in its sole discretion is an express and condition precedent to BBVA Compass' related obligation to perform any service or to meet any deadline imposed by law or regulation. Company bears the burden of proof of the time and manner of BBVA Compass' actual receipt of any notice or transmittal of information.
6. **Rejected Entries.** Company shall be responsible for remaking any Entries rejected during processing or rejected by any Participating Depository Financial Institutions ("Rejected Entries"), except Entries rejected as a result of BBVA Compass' error, if sufficient data is made available to BBVA Compass to permit it to remake those Entries in a correct manner ("Correcting Entries"). In the case of Rejected Entries which are debits or any adjustment memoranda or Entries relating to a debit Entry, upon notification by BBVA Compass, Company immediately will provide BBVA Compass with sufficient available collected funds to reimburse and indemnify BBVA Compass for any funds which were received or subject to any adjustment. Company shall retain for not less than five (5) banking days after midnight of the Settlement Date all information necessary to remake any Entries, file or make any Correcting Entries, and, if requested by BBVA Compass, shall supply such information to BBVA Compass.
7. **Returned and Disputed Entries.** Returned Entries will be delivered by BBVA Compass to Company and Company shall reimburse BBVA Compass immediately in collected funds for the amount of these items and any fees associated with these items. BBVA Compass reserves the right to require that Company supply drafts for redeposited return items. If any Customer notifies BBVA Compass that an Entry was in an incorrect amount, was not properly authorized, was erroneous or unauthorized under any applicable law or regulation, or was otherwise improperly, erroneously or unlawfully processed or paid, Company agrees to pay to BBVA Compass, in immediately available funds, the full amount of the Entry, plus any expenses for costs (including legal fees) incurred by BBVA Compass in connection with that Entry. Company further agrees that BBVA Compass may, as appropriate, pay the amount to the Customer or may return the amount to Company; provided, however, that upon payment of the amount by Company to the Customer, BBVA Compass shall be absolved and released from any expenses or costs incurred by Company with respect to such Entry. When a returned Entry indicated "payment stopped" as the reason for the return, Company shall not reinitiate that Entry unless Company subsequently received the Customer's authorization for reinitiation of that Entry.
8. **Notice of Entries.**
- (a) Company shall provide each Customer with positive written notice of each credit Entry to the Customer's Account ("Positive Credit Notice"), and shall otherwise fully comply with the provisions of the Electronic Funds Transfer Act, Regulation E of the Board of Governors of the United States Federal Reserve Board and any applicable state law, rules or regulations governing electronic fund transfers.
- (b) Company shall provide written notice to each Customer of the amount and scheduled date of each debit Entry prior to the scheduled date of the debit Entry. All such written notices of debit Entries, and any other means of debit Entry notice selected by Company, shall fully comply with the Electronic Funds Transfer Act, Regulation E of the Board of Governors of the United States Federal Reserve Board and any applicable state law, rules or regulations governing such electronic fund transfers.
9. **Entry Settlement.** Company shall provide BBVA Compass with immediately available funds not later than 8:00 o'clock a.m. Central Time on each Settlement Date sufficient in amount to pay all Entries initiated by Company which are to be settled on that date. Company hereby authorizes and instructs BBVA Compass to make deposits and withdrawals from any of Company's Accounts as appropriate to provide the services specified in this Agreement. Notwithstanding anything in this Agreement to the contrary, BBVA Compass reserves the right

to require that sufficient collected funds be in Company's Accounts prior to the time any Entry is processed by BBVA Compass under this Agreement.

10. **Effect of Rules.** The parties hereto expressly agree to be bound by the Rules as now or hereafter in effect, including, without limitation, that Company shall be bound by and comply with all limitations and requirements imposed upon an "Originator" under the Rules. Any changes in the Rules shall be deemed to automatically amend this Agreement, effective as of the date the changes in the Rules become effective. It is agreed that no Rule shall be deemed to diminish BBVA Compass' rights under this Agreement, except in the case of direct conflict, in which event the Rules shall control. Without limiting the foregoing, BBVA Compass may issue from time to time operating rules and procedures to Company describing the operating procedures for each service provided under this Agreement. From time to time, BBVA Compass may also issue updates to the operating rules and procedures. Company agrees that it will access and utilize all such services in accordance with the operating rules and procedures.
11. **File Suspension.** Notwithstanding anything in this Agreement to the contrary, BBVA Compass shall not be liable if a file suspends in connection with an Entry as the result of an error by Company or BBVA Compass' inability to contact a Designated Person, after using reasonable efforts to make contact.
12. **ACH Services by Third-Party Processor.** Upon Company's submission of a request for ACH Services on which Company has designated a third party to provide payment and processing services related to the Accounts (the "Processor") and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees as follows:

(a) Background

- (i) Company separately has authorized the Processor to initiate ACH Entries electronically to and from each Company Account designated on the Services Instructions for ACH Services (each, a "Designated Account" for the purposes of the ACH Services).
- (ii) At Company's request, BBVA Compass and the Processor have entered into the Automated Clearing House Services Agreement for Third-Party Processors (the "Third-Party Agreement. Among other points, the Third-Party Agreement establishes the security procedures applicable to all ACH Entries to and from a Designated Account to be initiated electronically by the Processor, including without limitation the security codes and other devices that the Processor or its "Designated Users" must use (collectively, the Processor Codes").

(b) Transaction Authorization. Company hereby authorizes BBVA Compass:

- (i) To provide the Processor with all software, Processor Codes and instructional materials necessary for the Processor to initiate ACH Entries electronically to and from each Company Account electronically (the "ACH Instructions").
- (ii) To process each ACH Entry (including all related instructions or information) to or from a Designated Account that is initiated electronically using the Processor Codes in accordance with the Third-Party Agreement and the ACH Instructions (each, an "Authorized Transaction").

(c) Reliance on Authorized Transaction. Each Authorized Transaction shall be deemed a transaction initiated by Company, and BBVA Compass may rely upon each

Authorized Transaction as a transaction properly authorized by Company. BBVA Compass is authorized to process each Authorized Transaction until: (i) BBVA Compass receives written notice from Company that Company has revoked its authorization for the Processor to initiate ACH Entries to and from any or all Designated Accounts; and (ii) BBVA Compass has had a reasonable opportunity to act upon Company's notice.

- (d) **Limitation of Liability; Indemnity.** Notwithstanding any other provision of this Agreement or any other agreement between BBVA Compass and Company, neither BBVA Compass nor any of its suppliers, licensors, service providers or vendors (each, including BBVA Compass, a "Provider") shall have any liability for any losses, damages, claims, judgments, costs or expenses (collectively, "Damages") incurred by Company that arise from or relate to Company's authorization of Processor to initiate ACH Entries electronically to or from any Designated Account or the Processor's use of any electronic system or network for the initiation of these ACH Entries.

The liability of BBVA Compass or any other Provider for any Damages incurred by Company as a result of the acts or omissions of any Provider shall be limited to interest on the Damages at issue, which shall accrue at the "federal funds rate" for each day on which such act or omission remains uncorrected; provided, however, if BBVA Compass or any other Provider is unable to recover any amount paid to an individual or entity that has no claim to such funds, such Provider shall be liable for Company's actual loss, not to exceed the unrecovered balance of the amount paid to the recipient that has no claim, plus interest rate described above.

Notwithstanding any other provision of this Agreement, neither BBVA Compass nor any other Provider shall have any responsibility for Damages arising, directly or indirectly, from any error, delay or failure to perform any obligation hereunder which is caused by fire, natural disaster, pandemic, strike, civil unrest, any inoperable communications facilities or any other circumstance beyond the reasonable control of that Provider. In no event shall any Provider be liable to Company or any third party for any indirect, consequential, special, punitive or exemplary damages.

Company shall indemnify, protect and hold the Providers and their respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person") harmless from and against any and all Damages incurred by a Provider that arise from or relate to Company's authorization of Processor to initiate ACH Entries electronically to or from any Designated Account or the Processor's use of any electronic system or network for the initiation of these ACH Entries. Company will, at its own expense, defend any action or proceeding brought against any Indemnified Person in connection with such Damages. In addition to the foregoing, all disclaimers and limitations on the liability of BBVA Compass and the obligation of Company to indemnify BBVA Compass with respect to the Processor's initiation of ACH Entries to or from any Designated Account, whether under this Agreement or any other agreement between BBVA Compass and Company, shall apply equally to all other Providers.

- (e) **Representations, Warranties and Covenants.** Company represents and warrants that each ACH Entry electronically submitted to or received by BBVA Compass from the Processor will fully satisfy and comply with all applicable requirements of all applicable laws and regulations. Company expressly warrants (i) that neither Company nor the Processor is a "Consumer" as defined in Section 205.2 (e) of Regulation E promulgated by the

- Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and (ii) that all ACH Entries initiated by the Processor are for commercial purposes, and not for personal or household purposes.
- (f) Termination. Notwithstanding any other provision regarding termination set forth in the Third-Party Agreement, this Agreement or in any other agreement between BBVA Compass and Company, BBVA Compass may terminate at any time, effective immediately, Processor's ability to initiate ACH Entries. BBVA Compass shall use reasonable efforts to promptly communicate notice of the termination to Company and the Processor, and will thereafter provide written confirmation of the termination if the initial notice of termination was not communicated in writing. BBVA Compass, at any time, may require Company or the Processor to execute additional documents or agreements in order for the Processor to continue to initiate ACH Entries electronically to or from any Designated Account.
13. **Returned Check Entries.** If any Entry initiated by Company relates to a check or other item (within the meaning of Revised Article 4 of the Uniform Commercial Code) that previously was returned unpaid due to insufficient or uncollected funds (a returned check or "RCK Entry"), Company represents and warrants to BBVA Compass that the RCK Entry complies with the Rules and this Agreement. In addition to this general representation and warranty, Company represents, warrants and promises that, with respect to each RCK Entry initiated by Company:
- (a) The item to which the RCK Entry relates:
- (i) Is a negotiable demand draft drawn on or payable through or at a Participating Depository Financial Institution, other than a Federal Reserve Bank or Federal Home Loan Bank;
 - (ii) Contains a pre-printed serial number;
 - (iii) Is in an amount less than \$2,500;
 - (iv) Indicates on its face that it was returned due to insufficient or uncollected funds in the Customer's account;
 - (v) Is dated 180 days or less from the date that Company initiated the RCK Entry;
 - (vi) Is drawn on an account held by a consumer Customer; and
 - (vii) Has been previously presented (A) no more than two times in its physical form, if the entry is an initial RCK Entry; or (B) no more than one time in its physical form and no more than one time as an RCK Entry, if the entry is a reinitiated RCK Entry;
- (b) Company has good title or is otherwise entitled to enforce the returned item to which the RCK Entry relates;
- (c) All signatures on the returned item to which the RCK Entry relates are authentic and authorized;
- (d) The returned item to which the RCK Entry relates has not been altered;
- (e) The returned item to which the RCK Entry relates is not subject to any defense or claim in recoupment that could be asserted against Company or BBVA Compass;
- (f) Company has no knowledge of the insolvency or bankruptcy of the maker or drawer of the returned item to which the RCK Entry relates;
- (g) The amount of the returned item, item number and account number contained on the returned item to which the RCK Entry relates are accurately reflected in the RCK Entry, and the amount of the RCK Entry does not include any service charge, fee or other amount associated with the returned item;
- (h) After initiating the RCK Entry, Company will not re-present the item to which the RCK entry relates or a copy of such item unless the related RCK entry has been returned unpaid;
- (i) The information encoded after issue in magnetic ink on the returned item to which the RCK Entry relates is correct;
- (j) Any restrictive endorsement set forth on the returned item to which the RCK Entry relates is void or ineffective;
- (k) Company will retain a reproducible and legible copy of the front and back of the returned item to which the RCK Entry relates for seven (7) years from the applicable Settlement Date and, within five (5) business days of BBVA Compass' request, shall provide to BBVA Compass a copy of the front and back of that returned item (indicating, if applicable, that the item has been finally paid);
- (l) Before receiving the item to which the RCK Entry relates, Company provided the Customer who signed that item with written notice that clearly and conspicuously stated Company's policy for re-presenting electronically items returned for insufficient or uncollected funds.
- Company agrees to indemnify BBVA Compass from and against any fine action, claim, demand, loss, liability or expense, including attorneys' fees and costs, resulting directly or indirectly from either Company's breach of any representation, warranty or promise in this paragraph or Company's failure to comply with the Rules or this Agreement in connection with any RCK Entry.
14. **Accounts Receivable Entries.** If Company uses any check or share draft provided by a Customer via the U.S. Mail or at a dropbox location as the source document to initiate a debit Entry to that Customer's account (an accounts receivable or "ARC Entry"), Company represents and warrants to BBVA Compass that the ARC Entry will comply with the Rules and this Agreement. In addition to this general representation and warranty, Company represents, warrants and promises that, with respect to each ARC Entry initiated by Company:
- (a) The check or sharedraft to which the ARC Entry relates:
- (i) Contains a pre-printed serial number;
 - (ii) Is drawn on the deposit account of a consumer Customer and not on any credit card or other loan account; and
 - (iii) Was completed and signed by that Customer;
 - (iv) Will not be presented or otherwise used to obtain payment;
 - (v) Will be destroyed by Company within fourteen (14) days of the Settlement Date of that ARC Entry;
- (b) The ARC Entry accurately reflects the amount, routing number, account number, and the serial number of the check or sharedraft to which the ARC Entry relates, and does not include any service charge, fee or other amount;
- (c) Company shall retain a reproducible and legible image, microfilm, or copy of the front of the check or sharedraft to which the ARC Entry relates for two (2) years from the Settlement Date of the ARC Entry and, within five (5) business days of BBVA Compass' request, shall provide to

BBVA Compass a copy of that check or sharedraft (designated on its face as "Copy");

- (d) Before receiving the check or sharedraft to which the ARC Entry relates, Company provided clear and conspicuous written notice to the Customer that Company's receipt of the Customer's check will authorize Company to initiate an ARC Entry debiting Customer's account according to the terms of the Customer's check.
- (e)
 - (i) Company has reasonable procedures by which Customers may opt-out of the conversion of their checks or sharedrafts to ARC Entries; and
 - (ii) At the time the ARC Entry was initiated, Company had not received any opt-out notice from the Customer who had signed the related check or sharedraft;
- (f) In processing an ARC Entry, Company will electronically capture the MICR line from the check or sharedraft, and will not key-enter the routing number, account number or check serial number except to correct errors relating to MICR misreads, misencoding or processing rejects; and
- (g) The ARC Entry is not being used to transmit a credit Entry, other than a reversal, to the Customer's account;

Company agrees to indemnify BBVA Compass from and against any fine, action, claim, demand, loss, liability or expense, including attorneys' fees and costs, resulting directly or indirectly from either Company's breach of any representation, warranty or promise in this paragraph or Company's failure to comply with the Rules or this Agreement in connection with any ARC Entry.

15. **Telephone-Initiated Entries.** If Company obtains oral authorization from a consumer Customer via the telephone to initiate a single debit Entry to that Customer's account (a telephone-initiated or "TEL Entry"), Company represents and warrants to BBVA Compass that the TEL Entry complies with the Rules. In addition to this general representation and warranty, Company represents, warrants and promises that, with respect to each TEL Entry initiated by Company:
- (a) Company obtained the consumer Customer's oral authorization for the TEL Entry either:
 - (i) During a telephone call initiated by the Customer;
 - (ii) While there was a written agreement in effect between the Customer and Company; or
 - (iii) Within two (2) years after the Customer purchased goods or services from Company;
 - (b) Company did not engage in any fraudulent or deceptive business practice in connection with the transaction for which the TEL Entry authorization was obtained, regardless of whether Company was otherwise in compliance with the Rules;
 - (c) Company either tape recorded the consumer Customer's oral authorization of the TEL Entry or, before the Settlement Date of the TEL Entry, provided the Customer with written notice confirming the oral authorization;
 - (d) Company shall retain the original or a duplicate tape recording of the consumer Customer's oral authorization of the TEL Entry, or a copy of the written notice confirming this authorization, as applicable, for two (2) years from the date of the authorization and, within five (5) business days of BBVA Compass' request, shall provide to BBVA Compass a copy of the tape recording of or the written notice confirming the Customer's oral authorization;

- (e) The following information was provided in connection with the oral authorization and also in any written confirmation notice given to the consumer Customer:
 - (i) The date on or after which the Customer's account would be debited;
 - (ii) The amount to be debited from the Customer's account;
 - (iii) The Customer's name;
 - (iv) A telephone number answered during normal business hours that the Customer could call with questions;
 - (v) The date of the Customer's oral authorization; and
 - (vi) A clear and concise statement explaining that the Customer's oral authorization will be used to initiate a single ACH debit Entry to the Customer's account;
- (f) If Company provided the consumer Customer with written notice confirming the Customer's oral authorization of the TEL Entry, then:
 - (i) Company disclosed to the Customer during the telephone call the method by which the notice would be provided; and
 - (ii) The written notice contained the information specified in subparagraph (e) above, and explained the Customer's right to contact Company at the designated telephone number to correct any errors appearing in the notice;
- (g) Before initiating the TEL Entry, Company utilized commercially reasonable procedures to verify:
 - (i) The identity (name, address and telephone number) of the consumer Customer who orally authorized the TEL Entry by confirming pertinent information with that Customer; and
 - (ii) The routing numbers obtained from the Customer;
- (h) The TEL Entry is not being used to transmit a credit Entry, other than a reversal, to the consumer Customer's account; and
- (i) Within five (5) business days of BBVA Compass' request, Company shall provide to BBVA Compass all information necessary to respond to any inquiries from N.A.C.H.A. about Company or Company's TEL Entries.

Company agrees to indemnify BBVA Compass from and against any fine, action, claim, demand, loss, liability or expense, including attorneys fees and costs, resulting directly or indirectly from either Company's breach of any representation, warranty or promise in this paragraph or Company's failure to comply with the Rules or this Agreement in connection with any TEL Entry.

16. **Internet-Initiated Entries.** If Company obtains authorization from a consumer Customer via the Internet to initiate either a single debit Entry or recurring debit Entries to that Customer's account ("WEB Entry"), Company represents and warrants to BBVA Compass that the WEB Entry complies with the Rules and the federal Electronic Funds Transfer Act, as implemented by Regulation E. In addition to this general representation and warranty, Company represents, warrants and promises that, with respect to each WEB Entry initiated by Company:
- (a) Company obtained authorization for that Entry in accordance with the technical specifications for WEB Entries that BBVA Compass provided separately to

- Company. Company agrees to provide a hard copy of the authorization to the Customer if requested to do so.
- (b) Company has employed a commercially reasonable fraudulent transaction detection system to screen that Entry.
 - (c) Company did not engage in any fraudulent or deceptive business practice in connection with the transaction for which the WEB Entry authorization was obtained, regardless of whether Company was otherwise in compliance with the Rules.
 - (d) Company has employed commercially reasonable methods of authentication to verify the identity of the Customer authorizing that Entry.
 - (e) Company has used commercially reasonable procedures to verify the validity of the routing numbers for the Customer's account to be debited.
 - (f) All transmissions of information related to the WEB Entry (whether between the Company and its Customer, between the Company and BBVA Compass, or between the Company and any third party), were either (1) encrypted using a commercially reasonable security technology, or (2) transmitted via a secure Internet session that utilizes a commercially reasonable security technology. In either case, the technology used to secure the transmission must comply with the technical specifications for WEB Entries that BBVA Compass provided separately to Company.
 - (g) Company agrees:
 - (i) to develop, implement and maintain effective security policies and procedures (including administrative, technical and physical safeguards) to ensure that the financial information Company obtains from Customers is protected. These policies and procedures shall comply with the technical specifications for WEB Entries that BBVA Compass provided separately to Company and, at a minimum, shall include adequate levels of:
 - (A) physical security to protect against theft, tampering, or damage;
 - (B) personnel and access controls to protect against unauthorized access and use; and
 - (C) network security to ensure secure capture, storage, and distribution.
 - (ii) to conduct or cause to be conducted annual audits of Company's security policies and procedures to protect Customer's financial information. The results of each annual audit shall be documented in a written report. Company shall deliver a copy of this report to BBVA Compass within ten (10) days after Company completes or receives the report, as applicable.
 - (h) The Entry is not being used to transmit a credit Entry, other than a reversal, to the consumer Customer's account. Company agrees to indemnify BBVA Compass from and against any fine, action, claim, demand, loss, liability or expense (a "Loss"), including attorneys' fees and costs, resulting directly or indirectly from Company's initiation of any WEB Entry, including without limitation any Loss related to or arising from Company's breach of any representation, warranty or promise made with respect to any WEB Entry or Company's failure to comply with the Rules or this Agreement in connection with any WEB Entry.
 - (i) BBVA Compass reserves the right, at any time and without notice to Company, to decline to process any one or more WEB Entries submitted by Company in the event that BBVA Compass, in its sole discretion, determines that: (i) Company has failed to maintain the security practices and procedures required by this Agreement, (ii) Company has failed either to perform an annual audit or to provide the report of the annual audit to BBVA Compass within the time period required by this Agreement; (iii) Company has failed to satisfy any other requirement of this Agreement applicable to WEB Entries, (iv) the rate of WEB entries returned to Customer is deemed excessive, or (v) Company's activities place BBVA Compass at a higher risk than when BBVA Compass initially approved Company to originate WEB Entries.
- 17. International ACH Transactions**
- (a) International ACH Transactions (IATs) are required to use the IAT Standard Entry Class (SEC) code and provide the additional information set forth in the applicable user guide as updated from time to time.
 - (b) An IAT is defined as a debit or credit entry sent through the U.S. ACH network that is part of a payment transaction involving a financial agency's office that is not located in the territorial jurisdiction of the United States. For the purposes of this definition:
 - "Financial agency" means an entity that is authorized by applicable law to accept deposits or is in the business of issuing money orders or transferring funds.
 - An office of a financial agency is involved in the payment transaction if it (i) holds an account that is credited or debited as part of the payment transaction, (ii) receives payment directly from a person/organization or makes payment directly to a person/organization as part of the payment transaction, or (iii) serves as an intermediary in the settlement of any part of the payment transaction.
 - For IAT purposes, the term "payment transaction", refers to an instruction of a sender to a bank to pay, or to obtain payment of, or to cause another bank to pay or to obtain payment of, a fixed or determinate amount of money that is to be paid to, or obtained from, a receiver: and any and all settlements, accounting entries, or disbursements that are necessary or appropriate to carry out the instruction.
 - (c) Company agrees to develop, implement and maintain effective policies and procedures to ensure that its employees, agents, authorized representatives, contractors and/or third party processors who may, at any time, initiate an Entry on behalf of the Company are fully trained, aware of, and are following the NACHA rules, including, but not limited to, the rules governing IATs.
 - (d) IATs will be scanned by Compass prior to posting the transaction to ensure that such transactions comply with all applicable statutes, laws, regulations and rules of the United States government, a State or any political subdivision thereof, including, but not limited to, the rules of the Office of Foreign Assets Control ("Applicable Law"). The Office of Foreign Assets Control ("OFAC") publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country-specific. Collectively, such individuals and companies are called "Specially Designated Nationals" or "SDNs." All assets of SDNs are blocked and U.S. persons are generally prohibited from dealing with them.

- (e) In the event that a scan of an IAT indicates the completion of the transaction may violate Applicable Law, Compass will suspend the IAT until the IAT is determined to not violate Applicable Law or as otherwise directed by Applicable Law or the appropriate law enforcement authorities.
- (f) Notwithstanding any other provision of this Agreement or any other agreement between Compass and Company, neither Compass nor any of its suppliers, licensors, service providers or vendors (each, including Compass, a "Provider") shall have any liability for any losses, damages, claims, judgments, costs or expenses (collectively, "Damages") incurred by Company that arise from or relate to Compass' failure or refusal to complete an IAT.
- (g) Because IATs are international transactions, they require additional time for settlement. Settlement for IAT origination complies with the standard timeframes for domestic ACH (on the effective date specified), but settlement with the foreign receiver may take an additional 1-2 business days. As a result, some IATs may take 3 or more business days for the recipient to receive credit. However, Company is required to have immediately available funds sufficient to pay all IAT Credit Entries at the time of transmission.
- (h) Company shall indemnify, protect and hold Compass and its respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person") harmless from and against any and all damages, losses, penalties, fines and/or assessments ("Damages") suffered or incurred that arise from or relate to Company's initiation of IAT Entries or the Company's use of any electronic system or network for the initiation of these ACH Entries. Company will, at its own expense, defend any action or proceeding brought against any Indemnified Person in connection with such Damages.

AUTOMATIC STANDING FUNDS TRANSFERS

Upon Company's submission of a request for Automatic Standing Funds Transfer Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

An automatic standing funds transfer ("AST") is a standing order of Company instructing BBVA Compass to make multiple transfers from a Company Account automatically and without further actions by Company (an "AST Order"), with each individual AST being in an amount established according to criteria defined by Company to a recipient and at intervals specified by Company. To initiate an AST Order, Company must provide the following information to BBVA Compass:

1. The account number for Company Account from which funds are to be drawn;
2. Criteria to determine the amount to be transferred;
3. Bank to which funds are to be transferred;
4. Name of the recipient and account number to which funds are to be transferred; and
5. Dates or intervals on which the transfers are to be automatically made, including any date by which the transfers shall cease.

BBVA Compass will make each AST according to Company's AST Order instructions, unless notified by Company in writing to cancel that AST Order. With respect to each AST and AST Order, BBVA Compass has: (i) no duty to make any inquiries regarding the performance of any contract or the completion of any transaction between Company and any recipient of an AST; (ii) no obligation to

Company other than to make each AST according to Company's instructions; and (iii) no liability if BBVA Compass fails to make any AST if there are insufficient funds in the designated Company Account to make that AST. In order to cancel an AST, Company must notify BBVA Compass in writing within at least two (2) business days prior to the next date on which an AST will be made to cancel the AST.

BBVA Compass has no obligation to determine whether the recipient identified in any AST Order is the account holder for the account to which funds are to be transferred. If Company's instructions for any AST Order contain any inconsistent information or other discrepancy regarding the name of the intended recipient and the account into which the funds are to be transferred, BBVA Compass shall make the transfer on the basis of the account number, even if that number identifies an account held by a person or entity other than the named recipient. If a funds transfer order issued by Company identifies an intermediary bank or beneficiary's bank only by an identifying number or by both name and identifying number, the receiving bank may rely on the identifying number as the proper identification of the intermediary bank or beneficiary's bank, even if such number identifies a person or entity different from the bank identified name; and the receiving bank need not determine whether the name and number refer to the same person or entity or whether the number refers to the bank. The foregoing is intended to be consistent with and subject to the terms and provisions of Sections 4A-207 and 4A-208 of the Uniform Commercial Code as in effect in the state in which BBVA Compass maintains Company Accounts, except that knowledge (whether actual or constructive) by BBVA Compass of any discrepancy or inconsistency in the information provided in connection with any AST shall not change or impair the right of BBVA Compass to execute an AST as provided in this subsection. BBVA Compass shall not be liable for executing any funds transfer request even when it has knowledge of the discrepancy or inconsistency.

BALANCE REPORTING SERVICES

Upon Company's submission of a request for Balance Reporting Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

Balance Reporting Services. The Company authorizes BBVA Compass to report to any Authorized Persons (as set forth in the Authorization Certificate) or to those persons designated by Company in the Service Instructions for Balance Reporting Services information concerning all accounts and account clearings and transactions, including, but not limited to, checking, savings, disbursement, zero balance, money market and loan balance accounts, which Company now or in the future maintains with BBVA Compass ("Balance Reporting Accounts"). BBVA Compass will make available this information at times specified by BBVA Compass from time to time. Company authorizes BBVA Compass to engage the services of and make Balance Reporting Accounts information available to independent contractors and other data processors as BBVA Compass deems necessary or desirable in order to provide Balance Reporting Accounts information to Company.

COMPASS E-ACCESS ONLINE IMAGE SERVICES

Upon Company's submission of a request for Compass e-Access Online Image Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Image Services.** Compass e-Access Online Image Services permits Company, using Compass e-Access, one of BBVA Compass's online Treasury Management Services websites,

to retrieve and view online images of items, reports, and other documents issued or created in connection with Company's Accounts (the "Image Services"). The type of items, reports, and documents for which Image Services are available are reflected on the Service Instructions for Image Services. The type of items, reports, and documents for which Image Services are available may be changed or updated from time to time by BBVA Compass. Company shall authorize Designated Users for Image Services in accordance with the authorization procedures set forth in the Online Services Provisions. Designated Users who have been authorized by Company to access Image Services may access Image Services using Compass e-Access according to the provisions and security procedures for online access set forth in the Online Services Provisions.

2. **Image Processing.** BBVA Compass will use its best efforts to process and provide retrieval access to images of all items, reports, and documents for which Image Services are available, and which Company has selected. BBVA Compass does not, however, guarantee that Company will be able to retrieve and view all images at all times or that all items, reports, and documents for which Image Services may be otherwise available will adequately process to the Image Services archive system. Company acknowledges that the Image Services archive system may not be accessible from time to time or a retrieval request may not be completed and a Designated User may be required to access Image Services at a later time. Company acknowledges that there exist many reasons and causes that certain images may not be available for retrieval or that certain items or documents may not adequately process to the Image Services system, including, but not limited to, (a) an item bearing a deficient MICR line that does not post to the Images Services archive, (b) errors based on account or routing number information, and (c) incompatible search criteria for certain items or documents. BBVA Compass shall have no liability or obligation for Company's inability to retrieve one or more images at any time.
3. **Image Quality.** Company acknowledges that the visual quality of a retrieved image depends on the visual quality of the item or document from which the image was created. The darkness, tint, tone, and clarity of both written and background characters contained in the original source item or document affects directly the quality of the image created. BBVA Compass shall have no responsibility or obligation to enhance or improve the visual quality of any image based on the condition or visual quality of the original source item or document.
4. **Timeliness of Response.** Company acknowledges that the timeliness of a response to a retrieval request for one or more images depends on the Company's Internet Service Provider ("ISP") and the medium through which Company connects to the Internet. Company acknowledges that certain ISPs and Internet medium connections produce a more rapid response than others, and that BBVA Compass has no responsibility or obligation to enhance or improve the response time to Company's Image Services retrieval requests.
5. **Time of Image Availability.** BBVA Compass from time to time will communicate to Company the time of day at which the various types of images created in connection with Image Services will be available for retrieval. The availability times may change from time to time as communicated to Company by BBVA Compass.
6. **Testing.** Prior to initiating Image Services with respect to Company's Accounts, BBVA Compass may require that Company and BBVA Compass conduct tests using samples of Company's source items and documents to insure that those items and documents will adequately process to the Image Services archive system.

7. **Inadvertent Retrieval.** In the event, due to operating error, any Designated User inadvertently retrieves an image of an item, report or document related to an account owned by an entity other than Company, Company agrees that the Designated User, upon recognition that the image is of an item, report, or document that does not relate to Company's Account, will immediately take the action necessary to delete the image from the Designated User's screen. Company agrees that neither Company nor any Designated User will use the inadvertently retrieved image for any purpose whatsoever. Company further waives any action or claim arising from the inadvertent retrieval of the image of any item, report, or document related to Company's Accounts by another entity using Image Services.
8. **Compass e-Access Provisions.** Without in any manner limiting the applicability to Image Services of the Online Services Provisions, Company specifically acknowledges the applicability of Sections 8 (Limitation of Liability; Indemnity) and 9 (Disclaimers) of the Online Services Provisions to Image Services.
9. **Representations, Warranties and Covenants.** Company represents and warrants that (a) Company is not a "Consumer" as defined in Section 205.2(e) of Regulation E promulgated by the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and (b) Company will at all times use Image Services for commercial purposes, and not for personal or household purposes.

COMPASS E-ACCESS® ONLINE SERVICES

Upon Company's submission of a request for Compass e-Access Online Services, or any service accessed only via Single Sign-On application and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Online Access.** Company may conduct online one or more of the following Treasury Management Services (as selected by Company in the Service Instructions for Compass e-Access Online Services) through access to and by use of Compass e-Access, one of BBVA Compass' online Treasury Management Internet Web sites: (a) Balance Reporting Services; (b) Book Transfer Services; (c) Stop Payment Services; (d) Automated Clearing House Services; (e) Wire Transfer Services; (f) Compass e-Payables; (g) Electronic Report Delivery Services; (h) Alerts Services; (i) Enhanced Lockbox Services; and (j) Loans Services (collectively, the "Online Services").

BBVA Compass may make certain features that are provided as part of any Online Service accessible both online and through an internet-enabled cell phone or other handheld device that can send and receive information using the technology that supports the Compass e-Access (a "Mobile Device"). For example, if Company has chosen to receive Balance Reporting Services through Compass e-Access, Users (as defined below) may receive certain reports that are provided as part of the Balance Reporting Services both online and on a Mobile Device. BBVA Compass, in its sole discretion, will determine which Treasury Management Services and which features within any particular Treasury Management Service may be accessible through Mobile Devices.

Company's use of Compass e-Access shall be subject to these terms and conditions, all instructions and guidelines established from time to time by BBVA Compass, all applicable software and user documentation terms and conditions, and all applicable state and federal laws and regulations. Company will only be granted access to, and agrees only to access, Compass e-Access to transact or conduct the Online Services selected by Company in the Service Instructions for Compass e-Access. Company may

only transact those Online Services that BBVA Compass has agreed to provide and has implemented for Company.

Balance Reporting Services, Automated Clearing House Services, and Enhanced Lockbox Services shall mean those services described elsewhere in this Agreement. Balance Reporting Services, Automated Clearing House Services, and Enhanced Lockbox Services shall be subject to all terms and conditions applicable to those services as set forth elsewhere in this Agreement.

Wire Transfer Services shall mean those services described in a separate Compass e-Access Automated Funds Transfer Agreement between BBVA Compass and the Company. Wire Transfer Services shall be subject to the terms and conditions of the Compass e-Access Automated Funds Transfer Agreement and the General Provisions of this Agreement.

Book Transfer Services allow Company to transfer funds between accounts maintained by Company at BBVA Compass.

Stop Payment Services allow Company to obtain the current status of items issued by Company and place stop payment instructions on a single item or range of items. Company may also cancel a previously placed stop payment instruction.

- The undersigned agrees to hold BBVA Compass harmless and indemnify it against any loss, expense, or cost incurred resulting from BBVA Compass' refusal to pay any item upon which customer places a stop payment request.
- A stop payment request issued via Compass e-Access will expire and become null and void twenty-four (24) months from the date received, unless revoked or released prior to that time, or unless renewed for additional periods of not more than twenty-four (24) months.
- Reasonable notification of a stop payment must be given at least twenty-four (24) hours prior to the relevant item being presented for payment. The stop payment fee applicable to a stop payment order initiated electronically will apply to each stop payment request.
- Stop payment requests initiated through Compass e-Access may not be cancelled the same day the stop payment requests are initiated.
- Stop payments must be submitted between 7:00 a.m. and 9:00 p.m. CT Monday-Friday. Stop payment requests placed at any other time may not be processed.

Electronic Report Delivery Services allow Company to obtain reports and statements. The form and content of the reports and statements shall be determined by BBVA Compass.

Alerts Services allows Company to receive notifications related to specific events, balances or transactions. The Company may subscribe to receive alerts for certain scenarios within the ACH, Balance Reporting, Wire Transfer, ERD Reporting, and Positive Pay Services. Some alerts are delivered every day on a regular schedule while others are sent in real time depending on the alert type and configuration. BBVA Compass shall not be liable to Company FOR ANY DAMAGES INCURRED as a result of BBVA Compass' delayed delivery of the Alerts Service if such delayed delivery is caused, directly or indirectly, by circumstances or events outside the reasonable control of BBVA Compass, including, but not limited to, power failures, telecommunications failures, internet server outages, lack of cellular service, or failure by Company to provide BBVA Compass with accurate delivery instructions.

- The Corporate Administrator permissions the Alerts service to the authorized User(s). Each authorized User may select to receive their notices via phone, fax, e-mail,

wireless device text, or via a combination of these delivery channels. Each message is customized to fit the particular channel through which it is being delivered. For added security, all alerts will mask the related account number(s). Phone and fax notifications may be delivered to anywhere in the continental US including Alaska, Hawaii, and Puerto Rico as well as in Canada. The wireless device messages are delivered in tiny text format.

- BBVA Compass shall not be liable to Company FOR ANY DAMAGES INCURRED for its failure to provide the Alerts Service if such failure is because of circumstances or events outside the reasonable control of BBVA Compass, including, but not limited to, power failures, telecommunications failures, internet server outages, lack of cellular service, or failure by Company to provide BBVA Compass with accurate delivery instructions.
- BBVA Compass' liability to Company for its failure to provide the Alerts Services is hereby specifically limited to the amount paid by Company to BBVA Compass for the Alerts Service. Further, BBVA Compass shall not be liable under any circumstances for any consequential, special, punitive, incidental, or similar damages arising from or in connection with the Alerts Service to be provided to Company by BBVA Compass.
- COMPANY WILL INDEMNIFY AND HOLD BBVA COMPASS, ITS OFFICERS, EMPLOYEES, AGENTS, AFFILIATES, ATTORNEYS, AND CONTRACTORS, HARMLESS FROM ANY CLAIM, LOSS, PENALTY, ASSESSMENT, COST, OR DAMAGE, WHETHER IN CONTRACT OR IN TORT (INCLUDING REASONABLE ATTORNEY'S FEES), AND ARISING OUT OF ANY ERRORS, NEGLIGENCE, ACTION, NON-ACTION, OR INVOLVEMENT BY COMPANY OR BBVA COMPASS, OR THEIR RESPECTIVE OFFICERS (INCLUDING INDIVIDUALS PORTRAYING THEMSELVES AS OFFICERS), EMPLOYEES, AGENTS, AFFILIATES, CONTRACTORS, AND ATTORNEYS, UNDER THIS AGREEMENT, OR IN CONNECTION WITH THE ALERTS SERVICE PROVIDED UNDER THIS AGREEMENT, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THOSE ASSERTED BY THIRD PARTIES FOR REIMBURSEMENT OR DAMAGES AND THOSE WHICH ARISE OUT OF OR UNDER THE ELECTRONIC FUNDS TRANSFER ACT, ANY APPLICABLE STATE ELECTRONIC FUND TRANSFER RULES OR REGULATIONS, OR ANY RULES OR GUIDELINES OF ANY AUTOMATED CLEARING HOUSE.

Loan Services allow a Company to: obtain information (including transaction history and account balances) on any loan or line of credit account that BBVA Compass has allowed to be included in the Online Services ("e-Accessible Loans"); make payments on any e-Accessible Loan, if permitted; and, if available, request advances on an e-Accessible Loan and (if the advance request is approved) transfer the advanced funds to a Company Account that is accessible through the Online Services.

2. **Internet Security.** Company shall designate in writing to BBVA Compass an individual (the "Corporate Administrator") to serve as its system and security administrator for Compass e-Access. The designating document must contain original signatures of the Corporate Administrator and a person whose signature appears on the Authorization Certificate for the BBVA Compass Treasury Management Services Agreement. The Corporate Administrator shall be responsible for (a) granting and revoking authority to designated users ("Designated Users") to access Compass e-Access and use the Online Services, including but not limited to applications accessed via Single Sign-On (b) defining the scope of authority (i) for each Designated User with respect to the Online Services selected by Company, and (ii) for

each Authorized Wire User (defined below) with respect to Wire Transfer Services, if selected by Company, including the designation of individual amount and individual daily limits for Wire Transfer Services transactions, (c) defining those accounts maintained by Company at BBVA Compass for which each Designated User shall have access and responsibility, (d) determining which Designated Users shall receive reports delivered through Electronic Report Delivery Services (if that service is selected by Company), and (e) selecting a back-up system and security administrator from among the Designated Users (the "Back-Up Administrator") if the Company will have three or more Designated Users. The Corporate Administrator shall grant to the Back-Up Administrator (if applicable) the authority to perform the obligations of the Corporate Administrator in the Corporate Administrator's absence. Compass e-Access shall be accessed, and Online Services shall be conducted or transacted, only by the Corporate Administrator, by a Designated User or, with respect to Wire Transfer Services, by an Authorized Wire User. If Company desires to change its Corporate Administrator, Company shall provide prior written notice to BBVA Compass of such change, signed by the new Corporate Administrator and a person whose signature appears on the Authorization Certificate for the BBVA Compass Treasury Management Services Agreement. The notice may be telefaxed to BBVA Compass, but it must be followed by a document with original signatures on it. No change of Corporate Administrator by Company shall be effective until accepted by BBVA Compass, and BBVA Compass has had a reasonable opportunity to update its records.

After Company has designated to BBVA Compass the identity of the Corporate Administrator, BBVA Compass shall provide the Corporate Administrator with the World Wide Web address of Compass e-Access on which the Online Services shall be accessible (the "Standard Compass e-Access Address"). and, if BBVA Compass has developed a mobile application specifically for use with a Mobile Device, the instructions to access that mobile application (the "Mobile e-Access Instructions").

BBVA Compass shall also provide the Corporate Administrator an identification code (the "Customer ID"), a password (the "Customer Password"), a user identification code ("User ID"), and a user password ("User Password"). The Corporate Administrator shall provide to each Designated User the Customer ID, the Customer Password and assign to each Designated User an individual User ID and User Password. The Corporate Administrator shall set-up each Designated User on Compass e-Access.

In addition to the IDs, Passwords and Company Codes described in this Section, each Corporate Administrator, Designated User, Authorized Wire User and Authorized ACH User (sometimes called a "User") will be required to select or create one or more alphanumeric codes (each, a "User Password"), images (each, a "Security Image"), phrases (each, a "Security Phrase"), question with a matching answer (each a "Challenge Question") or other types of security codes (referred to collectively as the "BBVA Compass Site IDs"). A User may be required to select separate BBVA Compass Site IDs for other online services provided by BBVA Compass.

The Corporate Administrator shall be responsible for specifically granting and revoking the authority for a Designated User to access Compass e-Access through a Mobile Device. Company acknowledges that it is the Corporate Administrator and not BBVA Compass responsibility to select and control those Designated Users accessing Compass e-Access using a Mobile Device.

To gain access to Compass e-Access using a Mobile Device, a User may be required to select, create or provide alternative security codes or use other security methods (the "Alternative Security Methods"). The IDs, Passwords and Company Codes

described in this Section, together with the BBVA Compass Site IDs and the Alternative Security Methods, are referred to as the "Security Codes." In selecting Security Codes, each User should select items that are different from any other security code that the User may have for other BBVA Compass products or for other secure accounts the User may have with others. The Security Codes must be used to gain access to Compass e-Access, and BBVA Compass will not allow access to Company Accounts through Compass e-Access without the Security Codes.

Company agrees that use of the Security Codes will authenticate the identity of each User and verify the instructions submitted through Compass e-Access. Security Images and Security Phrases or other items from the BBVA Compass Site ID will be presented to Users to help distinguish the Compass e-Access site from a site fraudulently created to look like this site (sometimes called a "phishing" or "pharming" site). In order to prevent unauthorized access to the Company Accounts and unauthorized use of Compass e-Access services, Company agrees to maintain the confidentiality of the Security Codes, and to instruct all Users also to maintain the confidentiality of the Security Codes. Company also agrees to review promptly each statement sent by BBVA Compass for any Company Account that is accessible through Compass e-Access in order to detect any unauthorized transactions. To the fullest extent permitted by applicable law, Company is responsible for all transactions on Company Accounts initiated using the Security Codes. Company is responsible for maintaining the confidentiality of all Security Codes, and for implementing the necessary internal controls, balancing and reconciliation functions, and audit procedures to prevent unauthorized use of Compass e-Access.

Company agrees that the use of the Security Codes constitutes a commercially reasonable security procedure for Company. Company also agrees to be bound by all requests, communications, or other instructions to BBVA Compass that are initiated using Compass e-Access and in compliance with this security procedure (including any Book Transfers, Positive Pay Payment Instructions, Stop Payment Requests, payment orders for wire transfers and ACH entries, and requests for cancellation or amendment of payment orders for wire transfers and ACH entries), regardless of whether or not Company actually authorized the instruction. If any instruction initiated through Compass e-Access and accepted by BBVA Compass in compliance with this security procedure contains any error, to the full extent allowed by law, Company shall be liable for, and shall indemnify BBVA Compass against any claims, losses and expenses BBVA Compass may incur that arises from or relates to the erroneous instructions. BBVA Compass' records demonstrating compliance with this security procedure will be deemed conclusive proof that the payment order received by BBVA Compass was authorized and that Company is bound by those instructions.

Company agrees to download and install any and all security software required by BBVA Compass and to install all updates, patches and/or any other amendments or modifications to the same when directed by BBVA Compass to do so. Company will not be allowed to access the Compass e-Access website and utilize its services unless any and all required security software is installed on all desktop computers and laptop computers accessing Compass e-Access (not applicable to the mobile application).

Wire Transfers: To utilize wire transfer services via Compass e-Access, Company must execute and deliver to BBVA Compass the Compass e-Access Automated Funds Transfer Agreement, which shall be a condition to the Company's use of Wire Transfer Services. Designated Users of Compass e-Access that are not specifically authorized by the Company or the Corporate Administrator as Authorized Wire Users (as defined below) shall not be permitted access to Wire Transfer Services. With respect to Wire Transfer Services, Company has two options to authorize individuals to

receive a randomly generated numeric authorization code and initiate Wire Transfer Services:

1. **One Time Passcodes.** The Corporate Administrator may utilize Compass e-Access to authorize an individual or individuals to initiate wire transfers ("Authorized Wire Users"). Once authorized by the Corporate Administrator, Authorized Wire Users will be required to set up the process to receive an authorization code, good for one online session, to verify each wire transfer request in the form of a code delivered to the Authorized Wire User via email, text message or automated voice telephone call ("One Time Passcode"); or
2. **Authentication Token.** The Company may select that each Authorized Wire User receive a physical token to receive authorization codes to initiate wire transfers ("Authorization Token"). To receive an Authorization Token, the Authorized Wire User must (i) be authorized by the Company to initiate wire transfers; (ii) provide certain information designated by BBVA Compass regarding each Authorized Wire User with which BBVA Compass can, when necessary, confirm the identification of each Authorized Wire User. BBVA Compass will provide each Authorized Wire User that will utilize an Authentication Token with (i) a unique user identification code ("Wire User ID") the use of which permits general recognition of the Authorized Wire User by the BBVA Compass Wire Transfer Services automated system, and (ii) the Authentication Token. Each Authorized Wire User utilizing Authentication Tokens is required to select a personal identification number ("Personal ID") when first using the Wire Transfer Services, and to change that Personal ID periodically when prompted thereafter. If any Authorized Wire User utilizing Authentication Tokens does not select a Personal ID within ninety (90) days after receipt of the Authentication Token, BBVA Compass may disable the token.

To use the Wire Transfer Service, an Authorized Wire User must be set up for One Time Pass Codes or have an Authentication Token. If an Authentication Token is not requested by the Company, the default authorization methodology will be One Time Pass Codes.

Company agrees to instruct each Authorized Wire User: (i) to maintain the confidentiality and security of the Personal ID, and not to disclose this ID; (ii) to safeguard the security of the token; (iii) immediately to notify BBVA Compass if the token is lost and/or (iv) maintain the confidentiality and security of the process to initiate a One Time Passcode and any devices that may receive the same (including, but not limited to, computers, email accounts and cellular telephones).

An Authorized User should not request that One Time Passcodes be sent to unsecure devices. Company agrees to instruct and monitor each Authorized Wire User accordingly.

Company agrees to be bound by any wire transfers initiated in compliance with these procedures. **Company agrees to hold harmless BBVA Compass from and against any loss caused by the failure by any Authorized Wire User to select, change, or to maintain the confidentiality of the Personal ID, and/or the request that a One Time Passcode be sent to an unsecure device and expressly assumes the risk of loss with respect to any wire transfer initiated using any One Time Passcode, token or Personal ID that has not been maintained and/or protected according to the terms of this Agreement.**

BBVA Compass shall not be liable to Company FOR ANY DAMAGES INCURRED for its failure to provide the One Time Passcode if such failure is because of circumstances or events outside the reasonable control of BBVA Compass, including, but not limited to, power failures, telecommunications failures, internet server outages, lack of cellular service, or failure by Company or the Authorized Wire User to provide BBVA Compass with accurate and/or complete delivery instructions.

If the Corporate Administrator elects to authorize wire users via Compass e-Access utilizing One Time Passcodes, Company agrees that even though email is commonly used for many business communications, BBVA Compass cannot guarantee the security or delivery of any e-mail notice, and BBVA Compass will have no liability: (1) for any delays or failure in providing this e-mail notice to an Authorized Wire User, (2) if the e-mail is intercepted, altered and/or forwarded to any party other than the Authorized Wire User, or (3) if the e-mail is infected with intrusive or destructive programs during the delivery process. Company further agrees that BBVA Compass will have no liability: (1) for any delays or failure in providing text messages or cellular telephone calls to an Authorized Wire User, (2) if the text message or cellular telephone call is intercepted altered and/or forwarded to any party other than the Authorized Wire User, or (3) if the text message or cellular telephone call is infected with intrusive or destructive programs during the delivery process. Under no circumstances will BBVA Compass be liable for any consequential, special, punitive, incidental, or other damages arising from or in connection with any delay or failure to provide any One Time Passcode.

If offered by BBVA Compass, in its discretion, Company may elect, with respect to one or more of its Accounts, to receive from BBVA Compass an automated confirmation message that BBVA Compass has received and executed a Wire Transfer Services transaction or payment order for each transaction initiated from the Accounts selected by Company ("Automated Confirmation"). If Company elects to receive Automated Confirmation, an Authorized Person shall provide BBVA Compass a list of Accounts for which the Company elects to receive Automated Confirmation and a telephone facsimile number (the "Notification Number") and/or e-mail address to which BBVA Compass will send the automated confirmation messages. BBVA Compass will send to the Notification Number and/or e-mail address an automated message regarding the receipt and execution of each transaction or payment order initiated through each Account selected by Company for Automated Confirmation. If Company elects to receive Automated Confirmation, Company agrees that it will diligently monitor the automated confirmation messages received from BBVA Compass and will act upon the information in a responsive manner. Company agrees that, even though email is commonly used for many business communications, BBVA Compass cannot guarantee the security or delivery of any e-mail notice, and BBVA Compass will have no liability: (1) for any delays or failure in providing this e-mail notice to Company, (2) if the e-mail is intercepted and altered and/or forwarded to any party other than Company, or (3) if the e-mail is infected with intrusive or destructive programs during the delivery process. Under no circumstances will BBVA Compass be liable for any consequential, special, punitive, incidental, or other damages arising from or in connection with any delay or failure to provide any e-mail notice. Company, not BBVA Compass, has final responsibility to confirm the receipt or transmission of any wire transmission to or from a Company Account.

If Company requests, based on technical or administrative constraints, that BBVA Compass perform all set-up functions for Company, BBVA Compass will do so; provided, however, that Company hereby acknowledges that Company and the Corporate Administrator remain responsible for all access to Compass e-Access and actions taken by the Corporate Administrator and Designated Users with respect to Online Services.

ACH Transactions: Designated Users of Compass e-Access that are not specifically authorized by the Company or the Corporate Administrator as Authorized ACH Users (as defined below) shall not be permitted access to Automated Clearing House Services. With respect to Automated Clearing House Services selected by Company, Company has two options to authorize individuals to receive a randomly generated numeric authorization code and access Automated Clearing House Services ("ACH Services"):

1. **One Time Passcodes.** The Corporate Administrator may utilize Compass e-Access to authorize an individual or individuals to access ACH Services (collectively "Authorized ACH Users" or individually "Authorized ACH User"). Once authorized by the Corporate Administrator, Authorized ACH Users will be required to set up the process to receive an authorization code to verify transactions using the ACH Services ("ACH Transactions") in the form of a code, good for one online session, delivered to the Authorized Wire User via email, text message or automated voice telephone call ("One Time Passcode"); or
2. **Authentication Token.** The Company may select that each Authorized ACH User receive an Authorization Token to initiate an ACH Transaction. To receive an Authorization Token, the Authorized ACH User must (i) be authorized by the Company to utilize ACH Services; (ii) provide certain information designated by BBVA Compass regarding each Authorized ACH User with which BBVA Compass can, when necessary, confirm the identification of each Authorized ACH User. BBVA Compass will provide each Authorized ACH User that will utilize an Authentication Token with (i) a unique user identification code ("RSA User ID") the use of which permits general recognition of the Authorized ACH User by the BBVA Compass ACH Services automated system, and (ii) the Authentication Token. Each Authorized ACH User utilizing Authentication Tokens is required to select a personal identification number ("Personal ID") when first using ACH Services, and to change that Personal ID periodically when prompted thereafter. If any Authorized ACH User utilizing Authentication Tokens does not select a Personal ID within ninety (90) days after receipt of the Authentication Token, BBVA Compass may disable the token.

To use ACH Services, an Authorized ACH User must be set up for One Time Pass Codes or have an Authentication Token. If an Authentication Token is not requested by the Company, the default authorization methodology will be One Time Pass Codes.

Company agrees to instruct each Authorized ACH User: (i) to maintain the confidentiality and security of the Personal ID, and not to disclose this ID; (ii) to safeguard the security of the token; (iii) immediately to notify BBVA Compass if the token is lost and/or (iv) maintain the confidentiality and security of the process to initiate a One Time Passcode and any devices that may receive the same (including, but not limited to, computers, email accounts and cellular telephones).

An Authorized User should not request that One Time Passcodes be sent to unsecure devices. Company agrees to instruct and monitor each Authorized ACH User accordingly.

Company agrees to be bound by any ACH Transactions initiated in compliance with these procedures. **Company agrees to hold harmless BBVA Compass from and against any loss caused by the failure by any Authorized ACH User to select, change, or to maintain the confidentiality of the Personal ID, and/or the request that a One Time Passcode be sent to an unsecure device and expressly assumes the risk of loss with respect to any ACH Transaction initiated using any One Time Passcode, token or Personal ID that has not been maintained and/or protected according to the terms of this Agreement.**

BBVA Compass shall not be liable to Company FOR ANY DAMAGES INCURRED for its failure to provide the One Time Passcode if such failure is because of circumstances or events outside the reasonable control of BBVA Compass, including, but not limited to, power failures, telecommunications failures, internet server outages, lack of cellular service, or failure by Company or the Authorized ACH User to provide BBVA Compass with accurate and/or complete delivery instructions.

If the Corporate Administrator elects to authorize ACH Users via Compass e-Access utilizing One Time Passcodes,

Company agrees that even though email is commonly used for many business communications, BBVA Compass cannot guarantee the security or delivery of any e-mail notice, and BBVA Compass will have no liability: (1) for any delays or failure in providing this e-mail notice to an Authorized ACH User, (2) if the e-mail is intercepted, altered and/or forwarded to any party other than the Authorized ACH User, or (3) if the e-mail is infected with intrusive or destructive programs during the delivery process. Company further agrees that BBVA Compass will have no liability: (1) for any delays or failure in providing text messages or cellular telephone calls to an Authorized ACH User, (2) if the text message or cellular telephone call is intercepted altered and/or forwarded to any party other than the Authorized ACH User, or (3) if the text message or cellular telephone call is infected with intrusive or destructive programs during the delivery process. Under no circumstances will BBVA Compass be liable for any consequential, special, punitive, incidental, or other damages arising from or in connection with any delay or failure to provide any One Time Passcode.

Company acknowledges that while BBVA Compass will attempt to ensure that the Customer ID, Customer Password, all User IDs, all User Passwords, all Wire User IDs, all RSA User IDs, all Personal IDs, all One Time Passcodes and all electronic communications between Company and BBVA Compass are encrypted, scrambled or otherwise protected against interception by a person whose access to Compass e-Access is unauthorized, Company nonetheless accepts and assumes all risk of loss or dissemination of information attributable to the electronic communications between Company and BBVA Compass through Compass e-Access. Company, the Corporate Administrator, each Designated User and, if applicable, each Authorized Wire User and/or each Authorized ACH User are responsible for safekeeping the Customer ID, the Customer Password, all User IDs, all User Passwords, and, if applicable, all Wire User IDs, RSA User IDs and Personal IDs (singularly, a "Company Code," and collectively, the "Company Codes") and, with respect to Wire Transfer Services and/or ACH Services (if applicable), One Time Passcodes and authentication tokens. Company, the Corporate Administrator, Designated Users and, if applicable, each Authorized Wire User and/or each Authorized ACH User shall not, at any time, permit access to Compass e-Access by any person who does not need to obtain access to Compass e-Access consistent with Company's rights hereunder.

If a Corporate Administrator loses or forgets a Customer ID or Customer Password, the Back-Up Administrator, or, if there is none, another Designated User, should provide assistance. If a Corporate Administrator loses or forgets his or her User ID or a User Password, the Corporate Administrator should contact BBVA Compass for assistance. If a Designated User loses or forgets a Customer ID, Customer Password, User ID or a User Password, the Corporate Administrator should provide assistance.

If an Authorized Wire User and/or an Authorized ACH User (collectively referred to herein as "Authorized User") loses an authentication token for Wire Transfer Services and/or ACH Services, the Authorized User shall immediately notify BBVA Compass by telephone, at which time BBVA Compass will disable the lost token. An Authorized Person shall thereafter request from BBVA Compass in writing a replacement token. The request for a replacement token must be signed by the Authorized Person and may be telefaxed to BBVA Compass, but the telefax must be followed by the original written request bearing the Authorized Person's original signature. After receiving a written communication requesting a replacement token, BBVA Compass will mail a replacement token directly to the Authorized User who lost the token. The Authorized User is required to select a new Personal ID when first initiating a transaction using the replacement token, and to change the Personal ID periodically thereafter. **The consequences of an Authorized User's failure to select, to change or to protect**

the confidentiality of a Personal ID as required by this Agreement is set forth above in this Section 2.

If an Authorized User loses or forgets a Wire User ID and/or an RSA User ID, the individual shall contact BBVA Compass by telephone. BBVA Compass will authenticate the individual's identification using the information regarding the individual provided by an Authorized Person in the implementation forms and communicate to the individual the applicable Wire User ID and/or RSA User ID.

If an Authorized User loses or forgets a Personal ID associated with an authentication token, the User shall contact BBVA Compass by telephone. BBVA Compass will authenticate the User's identification using the information regarding the User provided by an Authorized Person in the implementation forms, and BBVA Compass will re-set the token with a new Personal ID, which the User must change when first initiating a wire transfer using the re-set token and periodically thereafter. **The consequences of an Authorized User's failure to change or to protect the confidentiality of the new Personal ID as required by this Agreement is set forth above in this Section 2.**

If Company believes that one or more Company Codes have become known or obtained by unauthorized persons (whether or not employed by Company), the following procedures apply: if, under the terms of this Section 2, (a) the Company Code is one for which the Corporate Administrator would be responsible for changing if the Company Code was lost, the Corporate Administrator shall immediately change the Company Code; or (b) the Company Code is one for which the Corporate Administrator or an Authorized User, if applicable, would be required to contact BBVA Compass if the Company Code was lost, the Corporate Administrator or Authorized User, if applicable, shall immediately notify BBVA Compass. If Company believes that an authentication token has become known or obtained by unauthorized persons (whether or not employed by Company), it is the responsibility of each Authorized User and an Authorized Person immediately to follow the procedures set forth above in this Section 2 for lost authentication tokens. Additionally, BBVA Compass may change or disable any Company Code or authentication token at any time and for any reason. If BBVA Compass takes such action, BBVA Compass will make every reasonable effort to notify Company promptly. BBVA Compass assumes no responsibility to discover, audit, or report to Company any possible breach of security by Company's agents or representatives or anyone else for unauthorized disclosure or use of Company Codes or authentication tokens. Company acknowledges that the security procedures in this Section constitute commercially reasonable security procedures for the Company.

If Company is unable to access Compass e-Access or transact or conduct any Online Services, Company shall immediately notify BBVA Compass of such inability but shall transact or conduct such service through other means available to Company.

3. **Authorized Transactions.** BBVA Compass may rely upon any Online Service transacted or conducted through or by use of Compass e-Access as properly authorized by Company (including, without limitation, any transfer of funds, any advance from an e-Accessible Loan or any instructions or information related thereto it receives from Company through Compass e-Access). The Corporate Administrator, each Designated User and, if applicable, each Authorized User to whom BBVA Compass or the Corporate Administrator has provided access to Company Codes, or who has otherwise obtained access to Company Codes, is deemed an authorized representative of Company for purposes of all Online Services transacted or conducted through or by use of Compass e-Access, whether or not such person is authorized by this Agreement or any other agreement between BBVA Compass

and Company. All Authorized Users who have received authentication tokens from BBVA Compass, or anyone who has otherwise received an authentication token by any means, are deemed authorized representatives of Company for purposes of Wire Transfer Services and/or ACH Services transacted or conducted through or by use of Compass e-Access, whether or not such person is authorized by this Agreement or any other agreement between BBVA Compass and Company.

Company acknowledges and agrees that its Corporate Administrator and/or a Designated User is authorized to request advances on any e-Accessible Loans where advances are available, regardless of whether the Corporate Administrator and/or the Designated User is authorized to do so under the applicable loan documentation. Company authorizes BBVA Compass to process and make advances on e-Accessible Loans without further verification or authorization if requested by the Corporate Administrator and/or a Designated User in accordance with the procedures and processes set forth herein.

Notwithstanding the terms of any Treasury Management Services Agreement or any other agreement between Company and BBVA Compass, once Company accesses Compass e-Access to transact or conduct any Online Service, BBVA Compass will not verify that the transaction is authorized and Company is solely responsible for the accuracy and completeness of any data or information received by BBVA Compass. BBVA Compass is authorized by Company to process transactions in accordance with information BBVA Compass receives electronically from Company. Company shall be solely responsible for the information contained in the instructions and BBVA Compass shall have no responsibility for erroneous data provided by Company. **BBVA Compass shall have no liability for losses resulting from or related to Company's failure to limit access to Compass e-Access or maintain the confidentiality of the Company Codes and authentication tokens.** At the sole discretion of BBVA Compass, BBVA Compass may also require the use of other identifying information or other security procedures for certain Online Services and BBVA Compass may add to, change or delete any security procedure.

4. **Transaction Processing.**

Wire Transfers: Wire transfers are processed subject to the conditions and limitations provided below. For the purposes of this Agreement, the following definitions apply:

- A "Domestic Wire Transfer" means an outgoing wire transfer in U.S. Dollars (USD) sent either:
 - (i) To the beneficiary's account at a bank located in the United States, or
 - (ii) To a bank located in the United States, for credit to the beneficiary's account at a bank located outside the United States. This kind of a transfer is commonly referred to as an "International Fed Wire."
- A "Drawdown Wire Transfer Request" is an instruction by Company to debit an account held by Company or another party at a different financial institution. The party holding the account to be debited must authorize the requested Drawdown Wire Transfer. If the transfer is authorized, Company will receive an incoming wire for deposit into Company's account specified in the Drawdown Request.
- An "International Wire Transfer" means an outgoing wire transfer sent either:
 - (i) In USD to the beneficiary's account at a bank located outside the United States, or

(ii) In foreign currency.

- (a) Domestic Wire Transfers and Drawdown Requests: Domestic wire transfers and Drawdown Wire Transfer Requests initiated through Compass e- Access and received by BBVA Compass from 8:00 a.m. to 4:30 p.m. Central Time on a day that both BBVA Compass and the Federal Reserve are open for business will be processed the same day; however, if the Federal Reserve is closed on a day BBVA Compass is open for business, the wire transfer will be processed by the Federal Reserve on the next business day the Federal Reserve is open for business. Domestic wire transfers and Drawdown Wire Transfer Requests initiated through Compass e-Access and received by BBVA Compass after 4:30 p.m. Central Time on a day BBVA Compass is open for business or at any time on a day on which BBVA Compass is not open for business will be processed on the next day BBVA Compass and the Federal Reserve are open for business.
- (b) Drawdown Wire Transfer Requests: BBVA Compass assumes no responsibility for the failure by any financial institution receiving a Drawdown Wire Transfer Request to approve the Request, and has no duty to notify Company if the Request is not approved.
- (c) International Wire Transfers: International wire transfers initiated by Company through Compass e-Access and received by BBVA Compass by its cutoff time on a day that BBVA Compass is open for business will be processed the same day. International wire transfers initiated by Company through Compass e-Access and received by BBVA Compass after its designated cutoff time on a day that BBVA Compass is open for business or at any time on a day on which BBVA Compass is not open for business will be processed on the next day BBVA Compass is open for business.

For any International Wire Transfer initiated in Mexican Pesos, the scheduled "Value Date" (i.e., the date the wire transfer posts to the beneficiary's account) will be the same business day on which processing of the wire transfer is completed. For any International Wire Transfer initiated in Canadian Dollars, the scheduled Value Date will be one (1) business day after the day on which processing of the wire transfer is completed. For International Wire Transfers initiated in any other foreign currency, the scheduled Value Date will be two (2) business days after the day on which processing of the wire transfer is completed. The foreign currency exchange rates quoted for International Wire Transfers on Compass e-Access will be used for each foreign currency International Wire Transfer initiated via Compass e-Access UNLESS Company obtains a custom rate and related confirmation number from BBVA Compass and properly enters the custom rate confirmation number in the designed field when initiating the wire transfer. The foreign currency exchange rates quoted on Compass e-Access may differ from the exchange rates quoted by BBVA Compass for other purposes. If BBVA Compass makes an error in entering any foreign currency exchange rate on Compass e-Access, BBVA Compass reserves the right, in processing any International Wire Transfer initiated at the incorrect exchange rate, to substitute the correct exchange rate or to decline to process that wire transfer, as BBVA Compass may determine in its sole discretion.

USD Auto Conversion. The following section is applicable to Non-Consumer transactions only. If Company requests that United States Dollars (USD) be sent to a foreign country by initiating an international wire transfer in USD through BBVA Compass, BBVA Compass may (but is under no obligation to do so) automatically convert, or arrange with any of its designated correspondent banks to automatically convert, the

Company's USD wire transfer to the foreign currency of the beneficiary's account ("AutoConvert").

In the alternative, the beneficiary's bank (or its correspondent) may upon receipt convert the payment into the relevant foreign currency. Neither alternative requires any action or processing change on the Company's part. However, the Company may, if it chooses to, opt out of AutoConvert, either in full (i.e., as to all beneficiaries and foreign currencies), or in part (i.e., only as to certain beneficiaries and currencies), by sending a written notice to BBVA Compass clearly detailing its request, in which event, neither BBVA Compass nor its designated correspondent banks will convert such wire transfer amounts from USD.

In the event that the Company's wire is automatically converted by BBVA Compass or its designated correspondent bank under AutoConvert, and the foreign beneficiary requires the payment to be received in USD, the wire will be re-converted by our designated correspondent bank and settled in USD.

If the Company's transfer is returned for any reason, the Company agrees to accept the refund in USD. BBVA Compass will calculate the refund based on the buying rate of exchange of the foreign currency on the date of the refund. The exchange rate will include a commission to BBVA Compass for making the exchange. The Company agrees to accept this amount as a full refund, even if it is less than the original amount BBVA Compass transferred. The Company also agree to pay BBVA Compass all other charges and expenses BBVA Compass incurs either as a result of a USD or foreign currency funds transfer.

Transactions processed in foreign currency denominations are subject to daily (or more frequent) changes in exchange rates. When BBVA Compass or our specified correspondent bank converts a transaction under AutoConvert, BBVA Compass may determine at its discretion the currency exchange rate and then assign that currency exchange rate to the Company's transaction. The Company agrees to this procedure and agrees to accept the resulting determination of the currency exchange rate. BBVA Compass and its designated correspondent banks may consider many factors in setting currency exchange rates for these purposes. These factors include exchange rates set by others, its desired rates of return, market risk, and credit risk. Neither BBVA Compass nor any of its correspondent banks shall be responsible for any liability the Company may incur if its currency exchange rates are different from rates (1) offered or reported by third parties; (2) offered by BBVA Compass (or our correspondent) at a different time, at a different location or for a different transaction amount; or (3) that involve different payment media (such as bank notes, checks and wire transfers). The Company further acknowledges that: (a) its currency exchange rates for retail and commercial transactions, and for transactions affected after its regular business hours or on weekends, are different (and usually less favorable to the Company) than the exchange rates for large interbank transactions affected during a business day, and (b) revenue resulting from fees and rates assessed or applied by our designated correspondent banks in connection with currency conversions under AutoConvert may be shared between BBVA Compass and its correspondent.

Alternatively, when a beneficiary's bank (or its correspondent bank) converts a USD transaction into a foreign currency, such conversion will be subject to rates and fees assessed by such banks, and may be further subject to various local laws and practices. BBVA Compass has no control over those rates, fees or conditions, and the Company authorizes BBVA Compass

to process any resulting charges or credits to the Company's account.

Automated Clearing House (ACH) Transactions: ACH transactions initiated through Compass e-Access and received by BBVA Compass by 6:00 p.m. Central Time on a day BBVA Compass is open for business will be processed the same day. ACH transactions initiated through Compass e-Access and received by BBVA Compass after 6:00 p.m. Central Time on a day BBVA Compass is open for business or on a Saturday, Sunday, or holiday on which BBVA Compass is not open for business will be processed on the next day BBVA Compass is open for business.

Recurring ACH Payments. The Recurring ACH Payment feature available in the Compass e-Access system permits each of Company's Authorized ACH Users to establish a standing order of the Company to BBVA Compass to submit a group of one or more Entries (referred to as an "ACH Batch") on an automated and recurring basis, without further act or instruction by Company (a "Recurring ACH Payment"). In setting up a Recurring ACH Payment on the e-Access system, Company shall specify when each ACH Batch is to be transmitted, including:

- The Start Date, which is the date requested by Company as the Settlement Date for the first transmission of this ACH Batch.
- The Activation Time, which is the time at which Company requests the Compass e-Access system to activate each ACH Batch.
- The Recurrence Pattern, which is the frequency with which Company requests the Compass e-Access system to activate each ACH Batch: daily, weekly, monthly or yearly, and the day(s) within each week, month or year.
- The Back Dated or Future Dated designation, which indicates whether an ACH Batch should be back-dated or future-dated if the requested Settlement Date is a holiday or other non-business day.

The Compass e-Access system will activate and, subject to the overall terms of this Agreement and any additional approval required of Company, BBVA Compass will process each Recurring ACH Payment according to the instructions provided by Company through the Compass e-Access system. If the Company has elected to require additional approval for recurring ACH Payment, BBVA Compass will not process any ACH Batch until the necessary approval has been provided by Company. With respect to each properly established ACH Recurring Payment, BBVA Compass has (a) no duty to make any inquiries regarding the performance of any contract or the completion of any transaction between Company and the recipient of any Entry, (b) no obligation to Company other than to transmit each ACH Batch according to Company's instructions, and (c) no liability if BBVA Compass fails to transmit any ACH Batch (i) due to an Overlimit Entry, or (ii) if Company is using Prepaid ACH services and there are insufficient funds in the designated Company Account to execute that ACH Batch. In order to cancel a Recurring ACH Payment, Company must use the Compass e-Access system (a) to delete the recurring payment feature from the ACH Batch, (b) to disable the ACH batch, or (c) to delete the ACH Batch.

Book Transfers: Book Transfers initiated through Compass e-Access and received by BBVA Compass from 7:00 a.m. to 9:00 p.m. Central Time on a day BBVA Compass is open for business will be posted to the applicable accounts the same day. Book Transfers initiated through Compass e-Access and received by BBVA Compass at any time other than from 7:00 a.m. to 9:00 p.m. Central Time or on Saturday, Sunday, or holiday on which BBVA Compass is not open for business will

be posted to the applicable account on the next day BBVA Compass is open for business.

Stop Payment Requests: Stop Payment Requests initiated through Compass e-Access and received by BBVA Compass from 7:00 a.m. to 9:00 p.m. Central Time on a day BBVA Compass is open for business will be filed in relation to the applicable account the same day. Reasonable notification of a Stop Payment Request must be given to BBVA Compass at least twenty-four (24) hours prior to the relevant item being presented for payment. Stop Payment Requests initiated through Compass e-Access and received by BBVA Compass any time other than from 7:00 a.m. to 9:00 p.m. Central Time on a day BBVA Compass is open for business will not be accepted by Compass e-Access, will not be processed, and are not valid. To the extent the procedures and timing requirements set forth herein for stop payment requests initiated through Compass e-Access are inconsistent with any provisions applicable to stop payment requests set forth in the Uniform Commercial Code, then those provisions are deemed to be varied by agreement as contemplated by Section 1-302 of the Uniform Commercial Code.

5. **Grant of License.** BBVA Compass hereby grants Company a limited, nonexclusive, non-transferable, limited term, royalty-free, revocable sublicense to use Compass e-Access and the software creating, maintaining and supporting Compass e-Access (the "Software") and the printed user materials provided in connection therewith (the "Documentation") solely to conduct transactions in connection with the Online Services, for Company's internal business purposes only. Except as specifically provided herein, BBVA Compass does not grant to Company any other right or license, express or implied. Company may not sublicense, sell, lease, distribute or provide access to Compass e-Access, the Software or Documentation to any third parties, nor use the Software or Documentation in a service bureau, time-sharing or other similar arrangement, nor make any other use of the Software or Documentation that is not expressly permitted hereunder. BBVA Compass or a third party are the exclusive owners of and shall retain all right, title and interest in and to Compass e-Access, the Software, the Documentation and the Intellectual Property Rights (as defined herein).
6. **Equipment.** In connection with its use of Compass e-Access and Online Services for the purposes provided in this Agreement, or otherwise, Company shall obtain Internet browser software specified by BBVA Compass. Company shall be solely responsible for ensuring equipment and software compatibility with Compass e-Access and Online Services. All hardware and telecommunications equipment will be purchased and maintained by Company.
7. **BBVA Compass Representations and Warranties.** Subject to all terms of this Agreement, BBVA Compass warrants that it has the right to grant the sublicense to the Software and Documentation. In the event the Software or Documentation, or any portion thereof, is held to constitute an infringement of any third party's rights, and use thereof is enjoined, BBVA Compass shall, at its election: (a) promptly procure the right for Company; or (b) notify Company of its intent to discontinue use of the Software and Documentation.
8. **Limitation of Liability; Indemnity.** Notwithstanding any other provision of this Agreement or any other agreement between BBVA Compass and Company, neither BBVA Compass nor any of its suppliers, licensors, service providers or vendors (collectively, including BBVA Compass, the "Providers") shall have any liability for any liabilities, losses, damages, claims, judgments, costs or expenses (collectively, "Damages") that Company asserts or sustains as a result of Company's use of Compass e-Access or Online Services.

The liability of BBVA Compass or any other Provider for any Damages asserted by Company arising as a result of the acts

or omissions of any Provider shall be limited to interest on the funds at issue at the "federal funds rate" paid by BBVA Compass at the close of business on each day such act or omission remains uncorrected; provided, however, if BBVA Compass or such other Provider is unable to recover funds from a person or entity who or which receives such funds as a result of such Provider's acts or omissions and who has no claim to such funds, such Provider shall be liable for Company's actual loss, not to exceed the amount of unrecovered funds to which such unauthorized recipient has no claim, plus interest rate described above.

Notwithstanding any other provision of this Agreement, no Provider shall have any responsibility for Damages arising, directly or indirectly, from any error, delay or failure to perform any obligation hereunder which is caused by fire, natural disaster, strike, civil unrest, any inoperable communications facilities or any other circumstance beyond the reasonable control of BBVA Compass or such other Provider. In no event shall any Provider be liable to Company or any third party for any indirect, consequential, special, punitive or exemplary damages.

Company shall indemnify, protect and hold the Providers and their respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person") harmless from and against any and all Damages imposed upon or incurred by a Provider or in any way relating to this Agreement, Compass e-Access or Online Services. Company will, at its own expense, defend any action or proceeding brought against any Indemnified Person in connection with such Damages. In addition to the foregoing, all disclaimers and limitations on the liability of BBVA Compass and the obligation of Company to indemnify BBVA Compass, whether under this Agreement or any other agreement between BBVA Compass and Company applicable to the Online Services shall apply equally to all other Providers with respect to access to or use of, or any Online Service transacted through or by use of, Compass e-Access.

9. **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, COMPASS E-ACCESS, THE SOFTWARE AND THE DOCUMENTATION ARE PROVIDED FOR COMPANY'S USE DURING THE TERM HEREOF "AS IS" AND "WHERE IS", AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BBVA COMPASS AND THE OTHER PROVIDERS MAKE NO REPRESENTATIONS OR WARRANTIES AND DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO COMPASS E-ACCESS, THE SOFTWARE OR THE DOCUMENTATION, OR USE OF COMPASS E-ACCESS BY COMPANY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY AND NON-INFRINGEMENT. BBVA COMPASS DOES NOT WARRANT THAT THE OPERATION OF COMPASS E-ACCESS OR SOFTWARE WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM ANY OTHER PROGRAM LIMITATIONS. BBVA COMPASS DOES NOT MAKE ANY REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF COMPASS E-ACCESS, THE SOFTWARE OR THE DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. COMPANY ACKNOWLEDGES THAT IT MUST PROVIDE ALL EQUIPMENT AND PROVIDE AND MAINTAIN SERVICE THROUGH AN INTERNET SERVICE PROVIDER ("ISP") SUITABLE TO ACCESS COMPASS E-ACCESS AND IS SOLELY RESPONSIBLE FOR ALL FEES, COSTS AND CHARGES ASSOCIATED WITH AND MAINTENANCE OF SUCH EQUIPMENT OR SERVICE. COMPANY ACKNOWLEDGES THAT ITS ISP MAY HAVE UNINTENDED EFFECTS ON COMPANY'S USE OF COMPASS E-ACCESS AND THE ABILITY TO CONDUCT OR TRANSACT ONLINE SERVICES (INCLUDING, WITHOUT LIMITATION, COMPANY'S ABILITY TO ACCESS COMPASS E-ACCESS),

AND THAT BBVA COMPASS SHALL HAVE NO RESPONSIBILITY FOR SUCH EFFECTS. COMPANY ACKNOWLEDGES THAT THE SOFTWARE MUST INTERFACE WITH BBVA COMPASS' COMPUTERS, AND ASSUMES THE RISK THAT BBVA COMPASS' COMPUTERS MIGHT NOT BE OPERATIONAL OR COMPATIBLE AT ALL TIMES. COMPANY FURTHER ACKNOWLEDGES THAT BBVA COMPASS SHALL HAVE NO LIABILITY OR RESPONSIBILITY FOR THE SATISFACTORY PERFORMANCE OF COMPANY'S HARDWARE AND SOFTWARE USED TO INITIATE OR RECEIVE COMMUNICATIONS OVER THE INTERNET. COMPANY ALSO ACKNOWLEDGES THAT ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF COMPASS E-ACCESS IS DONE AT COMPANY'S OWN DISCRETION AND RISK AND THAT COMPANY WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO COMPANY'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

10. **Proprietary Rights.** Company acknowledges that BBVA Compass or the other Providers shall retain all rights, title and interests in and to Compass e-Access, the Software (including, without limitation, the source code, listings, magnetic media and any support materials related thereto) and Documentation, as well as the ideas and concepts incorporated in those items, and all modifications, improvements and enhancements thereof and additions thereto, including ownership of all trade secrets, copyrights and other associated proprietary and intellectual property rights pertaining thereto (collectively, the "Intellectual Property Rights"), except as granted hereunder. Company shall not take any action that is inconsistent with the Intellectual Property Rights of BBVA Compass or any Provider, nor shall it take any actions or engage in any conduct that violates the Intellectual Property Rights of BBVA Compass or any other Provider.

The Software and Documentation include trade secrets and other proprietary information of BBVA Compass and its suppliers, licensors, service providers and vendors and are confidential property of such person(s) or legal entity(ies). Company shall treat as confidential and shall not disclose or otherwise make available the Software, the Documentation (collectively, the "Confidential Information"), in any form, to any person other than Company's employees who have a need to know such Confidential Information. Company shall not attempt to nor shall it reverse engineer, disassemble, decompile or otherwise attempt to derive source code from Confidential Information, make the Confidential Information available to any third parties, modify, adapt, translate or create derivative works based upon such Confidential Information, or permit or authorize any third party to do any of the foregoing.

Company will instruct its employees who have access to the Confidential Information to keep the same confidential, by using the same care and discretion which Company uses with respect to its own confidential property and trade secrets. Company agrees that it shall not take any action to change or make any modification to Compass e-Access or the Software.

11. **Company's Additional Representations, Warranties and Covenants.** Company represents and warrants that each electronic communication submitted to BBVA Compass by the Company by use of Compass e-Access fully satisfies and complies with all applicable requirements of all applicable laws and regulations. Company expressly warrants (a) that Company is not a "Consumer" as defined in Section 205.2(e) of Regulation E promulgated by the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and (b) that all transactions initiated by Company using Compass e-Access are for commercial purposes, and not for personal or household purposes.

12. **Termination.** Notwithstanding any other provision regarding termination set forth herein or in any other agreement between BBVA Compass and Company, BBVA Compass may terminate Company's access to and its ability to transact Online Services through Compass e-Access at any time, effective immediately. BBVA Compass shall use reasonable efforts to communicate notice of the termination to Company promptly, and will thereafter provide written confirmation of the Termination if the initial notice of termination was not communicated in writing. BBVA Compass may require Company to execute additional documents or agreements to continue to conduct or transact Online Services through or by use of Compass e-Access at any time. The terms and provisions of Sections 5, 8, 9 and 10 of this Agreement shall survive the termination of this Agreement and Company's right to access and submit transactions through Compass e-Access.

COMPASS E-TRANSMIT® ONLINE SERVICES

Upon Company's submission of a request for Compass e-Transmit Online Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Online Access.** Company may conduct online one or more of the following Treasury Management Services and functions (as shown in the Service Instructions for Compass e-Transmit Services) through access to and by use of Compass e-Transmit, one of BBVA Compass' online Treasury Management Internet Web sites: (a) Automated Clearing House Services; (b) Compass e-Payables Services; (c) Electronic Delivery Services; (d) receive a Lockbox file; and (e) receive Account Analysis Statements (collectively, the e-Transmit Services). Company's use of Compass e-Transmit shall be subject to these terms and conditions, all instructions and guidelines established from time to time by BBVA Compass, all applicable software and user documentation terms and conditions, and all applicable state and federal laws and regulations. Company will only be granted access to, and agrees only to access, Compass e-Transmit to transact or conduct the e-Transmit Services shown in the Service Instructions for Compass e-Transmit. Company may only transact those e-Transmit Services that BBVA Compass has agreed to provide and has implemented for Company.

Compass e-Payables Services and Automated Clearing House Services shall mean those services described by those terms elsewhere in this Agreement. Compass e-Payables Services and Automated Clearing House Services shall be subject to all other terms and conditions applicable to those services as set forth in this Agreement.

Electronic Delivery Services allow Company to obtain or send files, reports and statements. The format and content of the files, reports and statements shall be determined by BBVA Compass.

Receipt of Lockbox files using e-Transmit Services is subject to all other terms and conditions applicable to Lockbox Services set forth elsewhere in this Agreement.

2. **Internet Security.** Company shall designate in writing to BBVA Compass those individuals who will be permitted to access and conduct online services using Compass e-Transmit ("Designated Users"). The designating document must contain the original signatures of a person whose signature appears on the Authorization Certificate for the Compass Treasury Management Services Agreement. Compass e-Transmit shall be accessed, and e-Transmit Services shall be conducted or transacted, only by the Designated Users. If Company desires to change or add a Designated User, Company shall provide prior written notice to BBVA Compass of such change, signed by a person whose signature appears on the Authorization Certificate for the Compass Treasury Management Services Agreement. The notice may be telefaxed to BBVA Compass, but it must be

followed by a document with an original signature on it. No change of Designated Users by Company shall be effective until accepted by BBVA Compass, and BBVA Compass has had a reasonable opportunity to update its records. After Company has designated to BBVA Compass the identity of the Designated Users, BBVA Compass shall provide the Designated Users with the World Wide Web address of Compass e-Transmit on which the e-Transmit Services shall be accessible. BBVA Compass shall also provide each Designated User an identification code (the "Mailbox ID"), a password (the "Mailbox Password"), a unique user identification code ("User ID") the use of which permits general recognition of the Designated User by the Compass e-Transmit Services automated system, and a user personal identification number ("PIN"). Every Designated User must change the PIN when the Designated User first initiates a transaction using e-Transmit Services and every ninety (90) days thereafter. Company agrees to hold harmless BBVA Compass from and against any loss caused by the failure by any Designated User to change the PIN when required by this agreement, and expressly assumes the risk of loss with respect to any transaction initiated by any Designated User whose PIN has not been maintained according to the terms of this Agreement.

Company acknowledges that while BBVA Compass will attempt to ensure that the Mailbox ID, Mailbox Password, all User IDs, all PINs and all electronic communications between Company and BBVA Compass are encrypted, scrambled or otherwise protected against interception by a person whose access to Compass e-Transmit is unauthorized, Company nonetheless accepts and assumes all risk of loss or dissemination of information attributable to the electronic communications between Company and BBVA Compass through Compass e-Transmit. Each Designated User is responsible for safekeeping the Mailbox ID, the Mailbox Password, all User IDs, and all PINs (singularly, a "Company Code", and collectively, the "Company Codes"). Company and each Designated User shall not, at any time, permit access to Compass e-Transmit by any person who does not need to obtain access to Compass e-Transmit consistent with Company's rights hereunder.

If a Designated User loses or forgets a Mailbox ID, Mailbox Password, User ID or PIN, the Designated User should contact BBVA Compass for assistance.

If Company or any Designated User believes that one or more Company Codes have become known or obtained by unauthorized persons (whether or not employed by Company), the Company shall immediately notify BBVA Compass to enable BBVA Compass to disable the affected Company Code(s). Additionally, BBVA Compass may change or disable any Company Code at any time and for any reason. If BBVA Compass takes such action, BBVA Compass will make every reasonable effort to notify Company promptly. BBVA Compass assumes no responsibility to discover, audit, or report to Company any possible breach of security by Company's agents or representatives or anyone else for unauthorized disclosure or use of Company Codes. Company acknowledges that the security procedures in this Section constitute commercially reasonable security procedures for the Company.

If Company is unable to access Compass e-Transmit or transact or conduct any e-Transmit Services, Company shall immediately notify BBVA Compass of such inability but shall transact or conduct such service through other means available to Company.

3. **Authorized Transactions.** BBVA Compass may rely upon any e-Transmit Service transacted or conducted through or by use of Compass e-Transmit as properly authorized by Company (including, without limitation, any instructions or information related thereto it receives from Company through Compass e-Transmit). Each Designated User to whom BBVA Compass has provided access to Company Codes, or who has otherwise

obtained access to Company Codes, is deemed an authorized representative of Company for purposes of all e-Transmit Services transacted or conducted through or by use of Compass e-Transmit, whether or not such person is authorized by this Agreement or any other agreement between BBVA Compass and Company.

Notwithstanding the terms of any Treasury Management Services Agreement or any other agreement between Company and BBVA Compass, once Company accesses Compass e-Transmit to transact or conduct any e-Transmit Service, BBVA Compass will not verify that the transaction is authorized and Company is solely responsible for the accuracy and completeness of any data or information received by BBVA Compass. BBVA Compass is authorized by Company to process transactions in accordance with information BBVA Compass receives electronically from Company. Company shall be solely responsible for the information contained in the instructions and BBVA Compass shall have no responsibility for erroneous data provided by Company. BBVA Compass shall have no liability for losses resulting from or related to Company's failure to limit access to Compass e-Transmit or maintain the confidentiality of the Company Codes. At the sole discretion of BBVA Compass, BBVA Compass may also require the use of other identifying information or other security procedures for certain e-Transmit Services and BBVA Compass may add to, change or delete any security procedure.

4. Transaction Processing.

Automated Clearing House (ACH) Transactions: ACH transactions initiated through Compass e-Transmit and received by BBVA Compass by 6:00 p.m. Central Time on a day BBVA Compass is open for business will be processed the same day; if the Federal Reserve is closed on a day BBVA Compass is open for business, the ACH transactions will be processed by the Federal Reserve on the next business day the Federal Reserve is open for business. ACH transactions initiated through Compass e-Transmit and received by BBVA Compass after 6:00 p.m. Central Time on a day BBVA Compass is open for business or on a Saturday, Sunday, or holiday on which BBVA Compass is not open for business will be processed on the next day BBVA Compass is open for business.

Positive Pay Files: Positive Pay files submitted through Compass e-Transmit and received by BBVA Compass by 7:00 p.m. Central Time on a day BBVA Compass is open for business will be processed that night. Positive Pay files submitted through Compass e-Transmit and received by BBVA Compass after 7:00 p.m. Central Time on a day BBVA Compass is open for business or on a Saturday, Sunday, or holiday on which BBVA Compass is not open for business will be processed on the next day BBVA Compass is open for business.

5. **Grant of License.** BBVA Compass hereby grants Company a limited, nonexclusive, non-transferable, limited term, royalty-free, revocable sublicense to use Compass e-Transmit and the software creating, maintaining and supporting Compass e-Transmit (the "Software") and the printed user materials provided in connection therewith (the "Documentation") solely to conduct transactions in connection with the e-Transmit Services, for Company's internal business purposes only. Except as specifically provided herein, BBVA Compass does not grant to Company any other right or license, express or implied. Company may not sublicense, sell, lease, distribute or provide access to Compass e-Transmit, the Software or Documentation to any third parties, nor use the Software or Documentation in a service bureau, time-sharing or other similar arrangement, nor make any other use of the Software or Documentation that is not expressly permitted hereunder. BBVA Compass or a third party are the exclusive owners of and shall retain all right, title and interest in and to Compass e-Transmit, the Software, the Documentation and the Intellectual Property Rights (as defined herein).

6. **Equipment.** In connection with its use of Compass e-Transmit and e-Transmit Services for the purposes provided in this Agreement, or otherwise, Company shall obtain Internet browser software specified by BBVA Compass. Company shall be solely responsible for ensuring equipment and software compatibility with Compass e-Transmit and e-Transmit Services. All hardware and telecommunications equipment will be purchased and maintained by Company.
7. **BBVA Compass Representations and Warranties.** Subject to all terms of this Agreement, BBVA Compass warrants that it has the right to grant the sublicense to the Software and Documentation. In the event the Software or Documentation, or any portion thereof, is held to constitute an infringement of any third party's rights, and use thereof is enjoined, BBVA Compass shall, at its election: (a) promptly procure the right for Company; or (b) notify Company of its intent to discontinue use of the Software and Documentation.
8. **Limitation of Liability; Indemnity.** Notwithstanding any other provision of this Agreement or any other agreement between BBVA Compass and Company, neither BBVA Compass nor any of its suppliers, licensors, service providers or vendors (collectively, including BBVA Compass, the "Providers") shall have any liability for any liabilities, losses, damages, claims, judgments, costs or expenses collectively, "Damages") that Company asserts or sustains as a result of Company's use of Compass e-Transmit or e-Transmit Services.

The liability of BBVA Compass or any other Provider for any Damages asserted by Company arising as a result of the acts or omissions of any Provider shall be limited to interest on the funds at issue at the "federal funds rate" paid by BBVA Compass at the close of business on each day such act or omission remains uncorrected; provided, however, if BBVA Compass or such other Provider is unable to recover funds from a person or entity who or which receives such funds as a result of such Provider's acts or omissions and who has no claim to such funds, such Provider shall be liable for Company's actual loss, not to exceed the amount of unrecovered funds to which such unauthorized recipient has no claim, plus interest rate described above.

Notwithstanding any other provision of this Agreement, no Provider shall have any responsibility for Damages arising, directly or indirectly, from any error, delay or failure to perform any obligation hereunder which is caused by fire, natural disaster, strike, civil unrest, any inoperable communications facilities or any other circumstance beyond the reasonable control of BBVA Compass or such other Provider. In no event shall any Provider be liable to Company or any third party for any indirect, consequential, special, punitive or exemplary damages.

Company shall indemnify, protect and hold the Providers and their respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person") harmless from and against any and all Damages imposed upon or incurred by a Provider or in any way relating to this Agreement, Compass e-Transmit or e-Transmit Services. Company will, at its own expense, defend any action or proceeding brought against any Indemnified Person in connection with such Damages. In addition to the foregoing, all disclaimers and limitations on the liability of BBVA Compass and the obligation of Company to indemnify BBVA Compass, whether under this Agreement or any other agreement between BBVA Compass and Company applicable to the e-Transmit Services shall apply equally to all other Providers with respect to access to or use of, or any e-Transmit Service transacted through or by use of, Compass e-Transmit.

9. **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, COMPASS E-TRANSMIT, THE SOFTWARE AND THE DOCUMENTATION ARE PROVIDED FOR COMPANY'S USE DURING THE TERM HEREOF "AS IS" AND "WHERE IS",

AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BBVA COMPASS AND THE OTHER PROVIDERS MAKE NO REPRESENTATIONS OR WARRANTIES AND DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO COMPASS E-TRANSMIT, THE SOFTWARE OR THE DOCUMENTATION, OR USE OF COMPASS E-TRANSMIT BY COMPANY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY AND NON-INFRINGEMENT. BBVA COMPASS DOES NOT WARRANT THAT THE OPERATION OF COMPASS E-TRANSMIT OR SOFTWARE WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM ANY OTHER PROGRAM LIMITATIONS. BBVA COMPASS DOES NOT MAKE ANY REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF COMPASS E-TRANSMIT, THE SOFTWARE OR THE DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. COMPANY ACKNOWLEDGES THAT IT MUST PROVIDE ALL EQUIPMENT AND PROVIDE AND MAINTAIN SERVICE THROUGH AN INTERNET SERVICE PROVIDER ("ISP") SUITABLE TO ACCESS COMPASS E-TRANSMIT AND IS SOLELY RESPONSIBLE FOR ALL FEES, COSTS AND CHARGES ASSOCIATED WITH AND MAINTENANCE OF SUCH EQUIPMENT OR SERVICE. COMPANY ACKNOWLEDGES THAT ITS ISP MAY HAVE UNINTENDED EFFECTS ON COMPANY'S USE OF COMPASS E-TRANSMIT AND THE ABILITY TO CONDUCT OR TRANSACT E-TRANSMIT SERVICES (INCLUDING, WITHOUT LIMITATION, COMPANY'S ABILITY TO ACCESS COMPASS E-TRANSMIT), AND THAT BBVA COMPASS SHALL HAVE NO RESPONSIBILITY FOR SUCH EFFECTS. COMPANY ACKNOWLEDGES THAT THE SOFTWARE MUST INTERFACE WITH BBVA COMPASS' COMPUTERS, AND ASSUMES THE RISK THAT BBVA COMPASS' COMPUTERS MIGHT NOT BE OPERATIONAL OR COMPATIBLE AT ALL TIMES. COMPANY FURTHER ACKNOWLEDGES THAT BBVA COMPASS SHALL HAVE NO LIABILITY OR RESPONSIBILITY FOR THE SATISFACTORY PERFORMANCE OF COMPANY'S HARDWARE AND SOFTWARE USED TO INITIATE OR RECEIVE COMMUNICATIONS OVER THE INTERNET. COMPANY ALSO ACKNOWLEDGES THAT ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF COMPASS E-TRANSMIT IS DONE AT COMPANY'S OWN DISCRETION AND RISK AND THAT COMPANY WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO COMPANY'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

10. **Proprietary Rights.** Company acknowledges that BBVA Compass or the other Providers shall retain all rights, title and interests in and to Compass e-Transmit, the Software (including, without limitation, the source code, listings, magnetic media and any support materials related thereto) and Documentation, as well as the ideas and concepts incorporated in those items, and all modifications, improvements and enhancements thereof and additions thereto, including ownership of all trade secrets, copyrights and other associated proprietary and intellectual property rights pertaining thereto (collectively, the "Intellectual Property Rights"), except as granted hereunder. Company shall not take any action that is inconsistent with the Intellectual Property Rights of BBVA Compass or any Provider, nor shall it take any actions or engage in any conduct that violates the Intellectual Property Rights of BBVA Compass or any other Provider.

The Software and Documentation include trade secrets and other proprietary information of BBVA Compass and its suppliers, licensors, service providers and vendors and are confidential property of such person(s) or legal entity(ies). Company shall treat as confidential and shall not disclose or

otherwise make available the Software, the Documentation (collectively, the "Confidential Information"), in any form, to any person other than Company's employees who have a need to know such Confidential Information. Company shall not attempt to nor shall it reverse engineer, disassemble, decompile or otherwise attempt to derive source code from Confidential Information, make the Confidential Information available to any third parties, modify, adapt, translate or create derivative works based upon such Confidential Information, or permit or authorize any third party to do any of the foregoing.

Company will instruct its employees who have access to the Confidential Information to keep the same confidential, by using the same care and discretion which Company uses with respect to its own confidential property and trade secrets. Company agrees that it shall not take any action to change or make any modification to Compass e-Transmit or the Software.

11. **Company's Additional Representations, Warranties and Covenants.** Company represents and warrants that each electronic communication submitted to BBVA Compass by the Company by use of Compass e-Transmit fully satisfies and complies with all applicable requirements of all applicable laws and regulations. Company expressly warrants (a) that Company is not a "Consumer" as defined in Section 205.2(e) of Regulation E promulgated by the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and (b) that all transactions initiated by Company using Compass e-Transmit are for commercial purposes, and not for personal or household purposes.
12. **Termination.** Notwithstanding any other provision regarding termination set forth herein or in any other agreement between BBVA Compass and Company, BBVA Compass may terminate Company's access to and its ability to transact e-Transmit Services through Compass e-Transmit at any time, effective immediately. BBVA Compass shall use reasonable efforts to communicate notice of the termination to Company promptly, and will thereafter provide written confirmation of the Termination if the initial notice of termination was not communicated in writing. BBVA Compass may require Company to execute additional documents or agreements to continue to conduct or transact e-Transmit Services through or by use of Compass e-Transmit at any time. The terms and provisions of Sections 5, 8, 9 and 10 of this Agreement shall survive the termination of this Agreement and Company's right to access and submit transactions through Compass e-Transmit.

COMPASS PAYSOURCE® CARD SERVICES

Upon Company's submission of a request for Compass PaySource Card Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Compass PaySource Card Services.** Compass PaySource Card Services allow Company to offer to employees and agents (hereinafter collectively referred to "employees" or singularly as "employee") of Company a Visa-branded Compass PaySource Card to which funds representing the employee's or agent's remuneration (net of taxes and other deductions) will be transferred from Company as provided herein. Compass PaySource Card Services are subject to the General Provisions and all terms and provisions for Automated Clearing House Services set forth in this Agreement. Any employee or agent of Company that (i) authorizes Company to enroll employee or agent of Company and (ii) who is accepted by BBVA Compass to receive a Compass PaySource Card shall be referred to as a "Participating Employee."

2. **Compass PaySource Card Employer's Obligations Regarding Customer Identification Program (CIP) for BBVA Compass**

For each BBVA Compass PaySource Card established by Employer for any of its employees, Employer agrees to perform the following obligations related to BBVA Compass Customer Identification Program. The Employer agrees: (1) to provide a notice to all employees about the collection and verification requirements of Section 326 of the USA PATRIOT Act; (2) to collect the identifying information from the employee as required by Section 326; and (3) to verify the identity of each employee. This Agreement will apply to all Compass PaySource Cards established by Employer after October 1, 2008. In addition, Employer agrees that it will not enroll anyone in the Compass PaySource Card who is not an actual employee of Employer and who does not provide the identifying information identified below.

(1) **Notice to Employees**

The following written notice will be provided to all employees prior to or at account set-up:

CUSTOMER IDENTIFICATION PROGRAM NOTICE

IMPORTANT INFORMATION ABOUT OPENING A NEW ACCOUNT

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify, and record information that identifies each person opening an account.

Prior to establishing a new Compass PaySource Card account with BBVA Compass, the Bank generally must obtain your legal name, physical residential street address, date of birth, taxpayer identification number or other identifying number (e.g., Social Security number or employer identification number) and other information that will allow the Bank to identify you. The Bank also may ask to see documentation verifying your identity, such as an unexpired driver's license or passport. With the Compass PaySource Card, your employer may request this information on behalf of the Bank during the card set-up phase.

With respect to the BBVA Compass PaySource Card, this notice will be prominently displayed in the BBVA Compass PaySource Card Employee Brochure to be provided to Employer by BBVA Compass as part of the pre-enrollment packet. Employer can satisfy this part of the Agreement by providing a copy of the Employee Brochure to each employee at or prior to enrollment.

(2) **Collection of Identifying Information**

The following information will be obtained from the employee prior to or at the time of account set-up:

- (a) **Employee name.** Employer will obtain the employee's full legal name, which the Employer will record in the name field of the on-line Cardholder Profile screen.
- (b) **Employee address.** Employer will obtain the employee's current residential street address, military P.O. Box or, in the event that the employee does not have a current street address or military P.O. Box, the street address of the employee's next of kin or of a "contact person," which the Employer will record in the address field of the on-line Cardholder Profile screen.

- (c) **Employee identification number.** Employer will obtain the following identification information from the employee, which Employer will record on the on-line Cardholder Profile screen: For a U.S. citizen, a taxpayer identification number (e.g., a social security number or employee identification number); for a non-U.S. citizen, a taxpayer identification number, passport number (along with the country of issuance), or an alien identification card number or the number and country of issuance of a government issued identification card which shows the employee's nationality or residence and contains a photograph or similar safeguard.
- (d) **Employee date of birth.** Employer will obtain the employee's date of birth, which Employer will record on the on-line Cardholder Profile screen.

(3) **Verification of employee identity**

- (a) **Verification methods.** Employer will use the following method to verify the identity of employees on all Compass PaySource Cards:
 - (i) **Comparison of I.D. documents:** Each employee will be required to present a government issued photo I.D. containing a unique identification number. The Employer will compare the information contained thereon to one or both of the following:
 - (a) comparable information already on file with the Employer; and/or
 - (b) information presented orally by the Employee in response to the Employer's request for the name, street address, date of birth, or taxpayer identification number during the Cardholder Profile screen entries.
 - (b) **Response when Employer cannot form a reasonable belief as to the identity of a employee.**

If Employer cannot form a reasonable belief as to the identity of a employee, it will respond as follows:

- (i) **Decline to Enroll Employee for a Compass PaySource Card.** If the employee is unable to resolve any discrepancies in his/her identifying information to the satisfaction of Employer, the Compass PaySource Card will be declined and Employer must notify the BBVA Compass BSA Department at 205.297.3000. Methods used by Employer to resolve discrepancies include; obtaining a satisfactory explanation from the employee; obtaining additional documentation from the employee or a 3rd party; or the use of a 3rd party database.
- (ii) **Use of account pending verification.** Since Employer intends to perform the verification prior to account opening, the employee will not be able to use the account unless and until the Employer has completed the verification.
- (iii) **Closure of an account.** Employer is required to report any suspicion of fraud, including identity theft, relating to any Compass PaySource Card to BBVA Compass' BSA Department for investigation. In the event that the Bank determines that, after a Compass PaySource Card has funded, there was no basis for Employer to develop a "reasonable belief" as to the identity of the employee, the Bank, in consultation with the Legal Department and

Compliance Department, will determine what action is required. This will include a determination of whether the Compass PaySource Card account should be closed.

(4) Record-keeping

For all funded Compass PaySource Cards, Employer shall preserve a description of the resolution of any discrepancies for five years after the PaySource Card is closed.

3. Enrollment; Issuance and Delivery of Compass PaySource Cards.

- (a) Enrollment. Company shall deliver to each prospective Participating Employee that requests enrollment for a Compass PaySource Card a package containing (i) BBVA Compass Privacy Disclosure, and (ii) other information and instructions regarding Compass PaySource Card Services. Each of these forms and items will be provided to Company by BBVA Compass. Company agrees to offer Compass PaySource Card Services only to Company's bona fide, current employees and agents. Company represents and warrants that (i) each prospective Participating Employee voluntarily requested enrollment, (ii) and enrollment was executed by bona fide, current employees or agent of Company, and (iii) Company delivered to the prospective Participating Employee BBVA Compass Privacy Disclosure and information and instructions that BBVA Compass provided to Company to give to Participating Employee.
- (b) Issuance and Delivery of Compass PaySource Cards. After enrollment, BBVA Compass will consider the prospective Participating Employee for a Compass PaySource Card. BBVA Compass reserves the right, in BBVA Compass' sole discretion, to close an issued Compass PaySource Card to any of Company's employees or agents for any lawful reason. Unless other delivery instructions are requested by Company, BBVA Compass will deliver each Compass PaySource Card directly to the approved Participating Employee at the address specified during enrollment. If Company has elected to maintain a supply of temporary non-personalized Compass PaySource Cards, Company may issue a temporary non-personalized Compass PaySource Card to a Participating Employee for use until BBVA Compass delivers a personalized Compass PaySource Card directly to the approved Participating Employee at the address specified during enrollment. Each Compass PaySource Card issued to a Participating Employee will be accompanied by (i) a copy of the Compass PaySource Card Terms and Conditions governing the Participating Employee's use of the Compass PaySource Card, and (ii) a then current fee schedule for Compass PaySource Card Services applicable to the Participating Employee. BBVA Compass may change the Compass PaySource Card Terms and Conditions, including the fees to be imposed on Participating Employees, at any time, as provided therein, by delivering to Company and each Participating Employee notice of the changes. BBVA Compass will additionally issue a Compass PaySource Card to as many as three (3) authorized users ("Authorized Users") per Participating Employee as requested by the Participating Employee under the Compass PaySource Card Terms and Conditions. BBVA Compass may, in its sole discretion, decline or approve any or all individuals requested by the Participating Employee to be Authorized Users of the Compass PaySource Card.
- (c) Each Participating Employee will have a cardholder account number established for the sole purpose of direct deposits to the Compass PaySource Card from the Employer's payroll account. Employer covenants and

agrees to keep the cardholder account number confidential and not disclose the same to the Participating Employee or any third party (with the exception of a third party payroll processor).

- 4. **SECURITY:** Company is advised that certain of the Services may be provided by way of the Internet using the Visa Prepaid Administration Tool (PAT). Use of any such method of communication requires that Company receive and transmit information via connection to remote computers over telephone lines or other Internet connections. Company acknowledges that data, including e-mail, electronic communications, and confidential financial data, may be accessed by unauthorized third parties when communicated to BBVA Compass using the Internet or other network or dial-up communications facilities, telephone or any other electronic means. With respect to PAT access, Company agrees to use software produced by third parties, including, but not limited to, "browser" software that supports a data security protocol compatible with the protocol used by PAT. Until notified otherwise by BBVA Compass, Company agrees to use software that supports the Secure Sockets Layer (SSL) protocol or other protocols accepted by BBVA Compass and to follow BBVA Compass' log-on procedures that support such protocols. Company acknowledges that BBVA Compass is not responsible for (i) notifying Company of any upgrades, fixes or enhancements to any such software; or (ii) any compromise of data transmitted across computer networks or telecommunications facilities, including, but not limited to, the Internet. With the exception of applications commonly known as web browser software, or other applications or access devices formally approved by BBVA Compass in writing, Company agrees not to (i) use any software, program, application or any other device to access or log on to BBVA Compass' computer systems, web site or proprietary software; or (ii) automate the process of obtaining, downloading, re-engineering, transferring or transmitting any information to or from BBVA Compass' computer systems, web site or proprietary software. In the event of any system failure, BBVA Compass may reserve the right to require additional documentation, including authorizations, from Company before accepting any order or re-instituting Company's access to PAT. Company assumes full responsibility for its selection of, access to, and use of products purchased from BBVA Compass as indicated on the Implementation Form. Company shall be responsible for the confidentiality, maintenance, and use both of its financial information on PAT, and of its access User Names, Passwords and answers to security questions. If Company requires more than one authorized signer's signature or authorization to conduct certain transactions related to Company's account(s) or the Services, this requirement will be deemed solely for Company's own purposes. BBVA Compass will not be liable to Company as long as at least one authorized signer's signature appears on the Company's checks, drafts, instructions, or orders, or if BBVA Compass' records indicate that a transaction, payment or other product use was made by or on behalf of one authorized signer by telephone, PAT, or other method. This includes situations in which Company has provided its access User Names, Passwords and/or answers to security questions to someone else to use. Company agrees not to hold BBVA Compass liable for following Company's written orders or instructions. Company agrees not to hold BBVA Compass liable for any damages of any kind resulting from Company's disclosure of its User Names, Passwords, answers to security questions and/or account numbers to any person identified or not identified on the Implementation Form. Company will be responsible for all orders and instructions entered through and under Company's User Names, Passwords, answers to security questions and/or account number(s), and any orders or instructions so received by BBVA Compass will be deemed to have been received from Company. All orders and instructions shall be deemed to be made at the time received by BBVA Compass and in the form received. Company agrees to immediately notify (in the manner prescribed by BBVA Compass from time to time) BBVA Compass if Company learns of:

- any loss or theft of User Names, Passwords, answers to security questions and/or account number(s); or
- any unauthorized use of any of Company's User Names, Passwords, answers to security questions, and/or account number(s), or of the electronic Services or any of Company's information; or
- any receipt by Company of confirmation of an order that Company did not place; or any similarly inaccurate or conflicting report or information.

5. Funds Transfer.

- Transfers. Company may transfer funds to Participating Employees by initiating an Automated Clearing House ("ACH") entry to BBVA Compass from Company's Account (as defined in this Agreement) that (i) contains the information and data required by BBVA Compass (as communicated to Company by BBVA Compass from time to time), (ii) identifies each Participating Employee to receive funds, and (iii) sets forth the amount of funds to be allocated to each specific Participating Employee's Compass PaySource Card. Company's failure to provide the funds or to initiate the ACH entry at the time or in the manner required by BBVA Compass may cause funds to be unavailable either to Participating Employees or to Company at the time or in the amount that Company requested. Company agrees that BBVA Compass shall not be responsible to Company or to any Participating Employee for any delay, loss or damage, and Company agrees to indemnify and hold harmless BBVA Compass from any delay, loss or damage, in the event BBVA Compass is unable to complete a requested ACH transfer of funds to or from any Participating Employee at the time, in the amount or in the manner Company requested as a result of Company's failure to provide BBVA Compass with the funds or to initiate the ACH entry in the manner required by BBVA Compass necessary to complete the requested transfer.
- Deductions. Company agrees that Company will initiate an ACH reversal or ACH debit entry only: (a)(i) if the Participating Employee was not entitled to receive either some or all of the funds transferred, and (ii) for the amount of the erroneous transfer, or (b) the Participating Employee has consented in writing to the reversal or debit entry. At BBVA Compass' request, Company shall deliver to BBVA Compass, as applicable, (i) data and information confirming the circumstances of any erroneous transfer for which an ACH reversal or debit entry is initiated, or (ii) the Participating Employee's written consent. Company agrees to be responsible, and agrees to indemnify and hold harmless BBVA Compass, for any losses that BBVA Compass may incur as a result of Company's initiating a reversal or debit entry of funds transferred to the Compass PaySource Card of any Participating Employee.
- Qualification for ACH Services. Company agrees that it will apply for BBVA Compass ACH Services according to the terms and provisions for ACH Services set forth in this Agreement. Company acknowledges that in the event Company does not qualify for ACH Services according to BBVA Compass' criteria for the approval of entities for ACH Services, Company will not be permitted to obtain Compass PaySource Card Services.

- Transactions with Compass PaySource Cards.** Each Participating Employee may access or use the funds available on the Compass PaySource Card at ATMs displaying the VISA or PLUS® logos, at merchants participating in the VISA or Interlink networks, at the teller of any financial institution displaying the VISA logo, or through other methods or services approved by BBVA Compass (collectively, the "Networks"). Company agrees that (i) funds available on a Participating

Employee's Compass PaySource Card become the property of that Participating Employee and are maintained by BBVA Compass in a limited-purpose account for that Participating Employee, which account is insured by the FDIC, (ii) neither Company nor any Participating Employee will be paid interest on funds that are available on a Participating Employee's Compass PaySource Card, and (iii) BBVA Compass is authorized and directed to transfer funds from each Participating Employee's Compass PaySource Card in accordance with any instructions received from the Networks and to pay the amount of any such transfer, plus any fees charged in connection with the transfer, to the appropriate party or parties.

7. Termination.

- Right to Terminate. BBVA Compass may, in its sole discretion, for any reason or for no reason, with thirty (30) days prior written notice, discontinue Compass PaySource Card Services to Company or terminate (i) any Participating Employee's right to have funds transferred to a Compass PaySource Card ("Loading Rights"), or (ii) the rights of any Participating Employee or any Authorized Users to use a Compass PaySource Card ("Use Rights"); provided, however, that in the event BBVA Compass, in its sole discretion, believes that there exists any fraud with respect to the use of a Compass PaySource Card or any other misuse or inappropriate use of a Compass PaySource Card, BBVA Compass may terminate immediately and without notice Compass PaySource Card Services and any Participating Employee's Loading Rights and Use Rights.

Company may cease using Compass PaySource Card Services at any time by notifying BBVA Compass in writing, at which time all Participating Employees' Loading Rights will be automatically terminated.

If a Participating Employee's Loading Rights are terminated automatically or by BBVA Compass, BBVA Compass may, in its sole discretion, (i) terminate the Use Rights of the Participating Employee and all Authorized Users and send a check to the Participating Employee for any funds remaining on the Compass PaySource Card, or (ii) permit the Participating Employee and any or all Authorized Users to continue to access funds stored on the Compass PaySource Card at the time of termination using the Compass PaySource Card under the Compass PaySource Card Terms and Conditions until no funds remain on the Compass PaySource Card. If BBVA Compass elects not to terminate the Use Rights, BBVA Compass will honor any request by the Participating Employee for a check for any funds remaining on the Compass PaySource Card. All Use Rights automatically terminate on a Compass PaySource Card when Loading Rights have been terminated and no funds remain on the Compass PaySource Card.

- Terminated Employees. Company agrees that if (i) any Participating Employee's employment with Company is terminated for any reason, or (ii) any Participating Employee notifies Company that the Participating Employee no longer wishes to participate in Compass PaySource Card Services, it shall be Company's responsibility to delete the information and data regarding that employee from future ACH entries initiated to transfer funds from Company to Participating Employees. BBVA Compass shall have no liability for Company's failure to delete information from an ACH entry that results in a funds transfer from Company to an individual whose employment has been terminated or who is no longer a Participating Employee.

- Compliance with Payroll and Employment Laws and Other Rules.** Company agrees that Compass PaySource Card

Services is a funds distribution service only. Company agrees that Company is solely responsible for compliance with all applicable federal, state and local laws, rules and regulations relating to payroll, compensation and employment matters, including, without limitation, as applicable, (i) federal and state wage and hour laws and regulations, (ii) proper withholding and timely remittance of any and all taxes related thereto (e.g., local, state and federal income, payroll, social security, or Medicare taxes), (iii) delivery of pay stubs and similar payroll information to Participating Employees, and (iv) any and all applicable Visa rules and/or regulations.

COMPASS REMOTE DEPOSIT ONLINE[®] SERVICES

Upon Company's submission of a request for Compass Remote Deposit Online Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

- General.** The terms and provisions of this Services Agreement provide for use by the Company of BBVA Compass' remote deposit service for the collection of checks by creating a digitized image of each check and truncate the original check for the electronic transmission of a file to BBVA Compass where the image is processed and/or printed as a substitute paper check, referred to as an Image Replacement Document ("IRD"), collectively referred to herein as "Transactions" and individually referred to herein as a "Transaction." BBVA Compass may from time to time agree to accept Transactions from Company, or its actual or apparent agent in the event that Company utilizes the lockbox services of a third party for the collection and processing for deposit checks and other items, and in such case the Transactions shall be governed by the terms and conditions set forth herein or incorporated herein by reference.
- System Description.** By using BBVA Compass' remote deposit service, Company may process original paper checks by capturing the image, front and back along with the MICR line, of the original check for transmission to BBVA Compass using the transmitted image file. BBVA Compass will process the digital image or print an IRD and process the IRD check as if it were an original paper check. IRD's and digital images are processed for collection through the local Federal Reserve or other clearinghouses, or directly to the paying institution. BBVA Compass' check image deposit service is intended to reduce transportation costs for delivery of deposits to BBVA Compass, expedite the deposit process and reduce the overall collection time for deposits.
- Authorized Transactions.** Under any of the following circumstances, BBVA Compass shall be conclusively entitled to deem the Transactions to be authorized by, and binding upon, Company: (i) if the Transactions and the electronic transmission of a file are made by Company or its actual or apparent agent, or (ii) if BBVA Compass reasonably believes the Transactions and the electronic transmission of a file were sent by an authorized representative of Company, or (iii) in the event Company utilizes the services of a third party for lockbox or other similar services to facilitate the processing of Transactions, provided that the Transactions and the electronic transmission of a file are in the name of Company and BBVA Compass reasonably believes that the Transactions and transmission of a file by such third party are sent on behalf of Company.
- Representations and Warranties of Company.** As to the Transactions transmitted to BBVA Compass, Company represents and warrants to BBVA Compass that: (i) the Transactions and authorization, preparation and presentment of the Transactions comply with the terms and conditions set forth in this Agreement; (ii) the digital image of the check transmitted to BBVA Compass is a true and correct image of the original

paper check and has not been altered in any manner by Company or any third party acting on behalf of Company, (iii) Company, or a third party acting on behalf of Company, has reviewed and confirmed that the image captured is identical in all respects to the original paper check and that the amount of the check captured is accurate, (iv) the original paper check has not previously been deposited for collection with BBVA Compass or any other financial institution, (v) Company represents that it will retain the original check, or in the event Company utilizes the lockbox services of a third party or other similar services that the third party will retain the original check for at least five (5) days and for such additional period as may be required in the event of a disputed electronic image or IRD, and that Company or such third party will take all necessary efforts to safeguard any checks until they are destroyed, (vi) Company agrees that in the event that a maker of a check asserts that the Transaction is unauthorized, the processing of the original item may be subject to additional terms of dishonormment, (vii) Company has no knowledge or notice of information to indicate that the Transaction is fraudulent or not authorized by the maker of the check, (viii) Company or its actual or apparent agent or any third party acting on Company's behalf will not cause or allow the original of any truncated check to be deposited with BBVA Compass or any other financial institution, or otherwise presented for payment; (x) Company agrees to and will follow the procedures for transmitting image files set forth in the separately distributed Remote Deposit Services User Guide as the same may be updated from time to time at the sole discretion of BBVA Compass, (xi) Company will give BBVA Compass full and prompt cooperation and assistance in the investigation and/or the defense of any claim, complaint, issue and/or liability arising out of the services provided under this Agreement; and (xii) only checks made payable to Company will be presented via the Remote Deposit Service.

- Provisional Settlement; Returns.** Company acknowledges that Transactions may be returned by the receiving institution for insufficient funds or other reasons. In addition, the Uniform Commercial Code and other applicable law may permit the Transactions to be returned for reason of alleged lack of authorization. Any credit or consideration given by BBVA Compass to Company with respect to any Transactions shall be deemed provisional, and BBVA Compass shall be entitled to revoke same without prior notice in the event one or more Transactions are rejected or returned to BBVA Compass. In the event one or more Transactions are returned for reason of alleged lack of authorization, Company may (i) promptly submit to BBVA Compass such proof of authorization and request that BBVA Compass forward such proof to the receiving institution for its consideration, or (ii) present the original paper check for collection in lieu of the electronic image or the IRD.

Company acknowledges and agrees that BBVA Compass may make adjustments to any credit or consideration given for a Transaction or Transactions to remedy any transmission and/or encoding errors.

- Equipment.** To utilize the services provided in this Agreement, the Company must use the equipment designated by BBVA Compass (the "Equipment") from time to time. Company may purchase the Equipment from BBVA Compass or from a third party vendor approved by BBVA Compass in writing. Further, Company acknowledges and agrees that BBVA Compass must know where the Equipment is physically located at all times. Company will give BBVA Compass notice where the Equipment will be installed and will give BBVA Compass thirty (30) days advance written notice before moving the Equipment.
- Software.** BBVA Compass may select and/or require specific Software to be used for the Remote Deposit Service (the "**RDC Software**"), including, but not limited to, (1) software to operate the Equipment and Service; (2) software to track the location of the Equipment using the Global Positioning System ("GPS") and (3) software to track, record and monitor the Equipment's

- use. Company acknowledges that any RDC Software is the property of BBVA Compass or BBVA Compass is the holder of a license for the RDC Software and that Company is a licensee or sublicensee of the RDC Software. BBVA Compass claims and reserves all rights and benefits therein afforded under copyright and other laws. Company's license of and permission to use the Software is non-exclusive and nontransferable, and it extends only to Company's own use of such Software for the purpose of processing Transactions as set forth in this Agreement. RDC Software may not be used to process transactions with or through any other party without the express written consent of BBVA Compass and only RDC Software may be used in connection with this Service. Company further acknowledges that RDC Software contains confidential information and trade secrets, which BBVA Compass has entrusted to Company in confidence. Company shall protect BBVA Compass' property and its interest in the trade secrets contained in the RDC Software by controlling access to the Software, permitting none of its employees nor any other person not an employee or agent of BBVA Compass to examine, alter, attach, add to, modify, decode, reverse engineer, transcribe, extract or reproduce, in whole or in part, the Software in any way. Without limiting the generality of the foregoing, Company specifically agrees that it will not delete, mask or obscure any proprietary notices, which BBVA Compass places on any RDC Software. Company further agrees to install all new versions, upgrades, patches, protocols and/or any other changes, amendments or alterations (collectively referred to herein as "**Upgrades**") to the Software within ten (10) days of receipt of the same or receipt of notice from the BBVA Compass of where and/or how to retrieve the Upgrades. Company may make one (1) copy of the RDC Software to be used exclusively for backup purposes. Otherwise, Company shall not copy the software and shall not transfer or disclose it to any other person, firm or corporation except for those employees of Company who require such knowledge of the RDC Software in the ordinary course and scope of their employment.
8. **Company Indemnification.** Company agrees to indemnify and hold BBVA Compass, its affiliates, directors, officers, employees, and agents harmless from and against all losses, liabilities, cost, damages and expenses (including reasonable attorneys' fees and cost of litigation) to which BBVA Compass may be subjected or which it may incur in connection with any claims which might arise from or out of Company's use of BBVA Compass' remote deposit service or the processing of any check images or IRD's transmitted to BBVA Compass by Company or Company's actual or apparent agent. Company shall also hold BBVA Compass, its affiliates, directors, officers, employees, and agents harmless from and against all losses, liabilities, cost, damages and expenses (including reasonable attorneys' fees and cost of litigation) to which Company may be subjected or which it may incur in connection with any claims which might arise from or out of Company's use of or the failure of any software or hardware provided, required or suggested by the BBVA Compass. The Company's indemnity obligations under this section shall survive termination of this Agreement.
 9. **BBVA Compass' Right of Refusal.** BBVA Compass may, in its sole discretion, refuse to process any electronic image or IRD at any time without prior notification to Company.
 10. **Limitation of Remedies.** In addition to the limitation of liability contained in the General Terms section of this agreement, BBVA Compass will use due care in its performance under this Services Agreement and it will, at its own expense, correct any data in which (and to the extent that) errors have been made by BBVA Compass' personnel or by malfunction of BBVA Compass' Software. However, the expense to BBVA Compass of correcting such data shall constitute BBVA Compass' only responsibility in connection with such errors or in connection with any other performance or nonperformance by BBVA Compass under this Agreement. In the event that BBVA Compass undertakes to correct any error caused by the Equipment or a third party vendor or any other third party acting on behalf of Company, BBVA Compass shall not have any liability with respect thereto.
- It is Company's responsibility to verify that all Transactions were delivered to BBVA Compass and that the Transactions received by BBVA Compass were complete and accurate. A CONFIRMATION OF DELIVERY BY BBVA COMPASS DOES NOT RELIEVE COMPANY OF THIS OBLIGATION.
11. **Audit Rights.** Upon reasonable notice, BBVA Compass may audit, at its own expense, Company's hardware, Software, procedures, processes and any and all relevant business records directly relating to this Agreement. If any errors or discrepancies for the audited period are found, BBVA Compass may, in its sole discretion and option, immediately terminate this Agreement.
 12. **Equipment Purchase and Maintenance.** If the Service Instructions for Remote Deposit Services recognize that Company has requested BBVA Compass to sell and maintain the Equipment (as defined in Section 6 above), then the following provisions also shall apply:
 - (a) **Purchase Price.**
 - (i) **Amount.** The total purchase price of the Equipment (the "Purchase Price") will be determined by mutual agreement between BBVA Compass and the Company.
 - (ii) **Payment.** Company may choose one of the following three (3) options for payment of the Purchase Price:
 - (A) Contemporaneously with the purchase of the Equipment, Company shall pay the Purchase Price to BBVA Compass in cash or otherwise pay, or agree to pay, in full in a single installment, and BBVA Compass would thereby acknowledge receipt of such payment or agreement to pay in full via a method other than cash;
 - (B) BBVA Compass shall offset the Purchase Price against deposit account earnings credits available to Company as reflected on Company's account analysis statement in six (6) equal, successive, monthly installment amounts ("Monthly Installments"). No interest shall accrue on the unpaid portion of the Purchase Price. If such earnings credits are insufficient to pay any Monthly Installment when the same becomes due and payable, then BBVA Compass may deduct the Monthly Installment, as well as any past due Monthly Installment(s), from any of Company's accounts; or
 - (C) BBVA Compass shall offset the Purchase Price against deposit account earnings credits available to Company as reflected on Company's account analysis statement in twenty four (24) equal, successive, Monthly Installments. No interest shall accrue on the unpaid portion of the Purchase Price. If such earnings credits are insufficient to pay any Monthly Installment when the same becomes due and payable, then BBVA Compass may deduct the Monthly Installment, as well as any past due Monthly Installment(s) from any of Company's accounts.

Obligation of Payment in Full. If Customer has elected to pay the Purchase Price in installments pursuant to Section 1(b)(ii) or (iii) hereof, then such obligation is absolute and unconditional and shall be unaffected by and survive any termination of the Agreement, the BBVA Compass Remote Deposit Online Services or any deposit account relationship(s) or other services to which the Agreement and remote deposit services relate. In the event of termination of any of the foregoing (by either Company or BBVA Compass), any unpaid balance of the Purchase Price shall be due and payable immediately, and BBVA Compass may deduct such unpaid balance from any Company Account.

Maintenance. BBVA Compass shall provide maintenance services ("Maintenance") for the Equipment through a third party vendor in accordance with the following:

- (i) Scope of Maintenance. Maintenance will cover repair or replacement of the Equipment so that it performs in accordance with its applicable documentation. Maintenance does not include replacement of consumable items. The foregoing is the sole and exclusive Maintenance obligation of BBVA Compass as it relates to the Equipment.
- (ii) Conditions of Availability of Maintenance Services. To be eligible for Maintenance, Customer shall promptly notify BBVA Compass of any error in the operation of the Equipment, and Company must maintain the Equipment in accordance with requirements and recommendations contained in the Equipment manufacturer's documentation. Maintenance Service does not include repairs for Equipment that has been subjected to unusual or extreme physical, environmental or electrical stress, or from which the original identification marks have been removed or altered, or which is damaged due to accident, misuse, neglect, or unauthorized or improper alteration, repair, installation, testing or modification. BBVA Compass will charge Company the then-current service rates in effect for maintenance that is necessitated by any of the foregoing conditions.
- (iii) Termination of Maintenance. BBVA Compass may terminate Maintenance in accordance with the terms and conditions of Section 6 (Term; Termination) of the General Provisions of this Agreement.
- (iv) Communication. To receive Maintenance, call BBVA Compass Business Relationship Services at (800) 607-4444.

Warranty. BBVA COMPASS HEREBY ASSIGNS AND TRANSFERS TO COMPANY ALL APPLICABLE MANUFACTURER'S WARRANTIES COVERING THE EQUIPMENT. BBVA COMPASS MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE EQUIPMENT, AND IT HEREBY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES (INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY OF NONINFRINGEMENT) AND ANY AGREEMENTS, REPRESENTATIONS, AFFIRMATIONS AND WARRANTIES, WHETHER WRITTEN OR ORAL, MADE BY ANY AGENT,

EMPLOYEE OR REPRESENTATIVE OF BBVA COMPASS.

Limitation of Liability. THE SOLE OBLIGATION OF BBVA COMPASS AND THE SOLE REMEDY OF COMPANY RELATING IN ANY WAY TO THE EQUIPMENT WILL BE TO MAINTAIN IT ACCORDING TO THE TERMS HEREIN. BBVA COMPASS SHALL HAVE NO LIABILITY TO COMPANY FOR THE ACTS OR OMISSIONS OF THIRD PARTIES. IN NO EVENT WILL BBVA COMPASS BE LIABLE TO COMPANY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER SIMILAR DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF BUSINESS OR OTHER ECONOMIC DAMAGE) ARISING OUT OF THE EQUIPMENT OR COMPANY'S USE OF OR INABILITY TO USE IT, EVEN IF BBVA COMPASS OR AN AUTHORIZED REPRESENTATIVE OF BBVA COMPASS IS AWARE, OR SHOULD HAVE BEEN AWARE, OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER ARISING IN CONTRACT, TORT, WARRANTY OR OTHERWISE. IN NO EVENT WILL BBVA COMPASS BE LIABLE TO COMPANY FOR ANY REASON FOR ANY AMOUNT IN EXCESS OF THE PURCHASE PRICE. BBVA COMPASS NEITHER ASSUMES NOR AUTHORIZES ANY PERSON OR ENTITY TO ASSUME FOR IT ANY OTHER LIABILITIES.

Risk of Loss. Title to, and risk of loss of, or damage to, the Equipment shall pass to Company upon delivery of the Equipment.

13. **DFARS.** If Company is subject to Defense Federal Acquisition Regulation Supplement (DFARS), the following provisions apply:

- (a) Company agrees that the Software qualifies as "commercial" computer software within the meaning of all federal acquisition regulation(s) applicable to this procurement, and that the Software was developed exclusively at private expense.
- (b) If Company determines that it is unable to accept any of the license restrictions under which the Software is provided to Company because those restrictions fail to meet Company's needs or are inconsistent in any respect with federal law, Company immediately and before any use will return the Software to BBVA Compass.
- (c) Company's use, modification, reproduction, release, display, or disclosure of the Software or related documentation is subject solely to the terms of the license provided in Section 7 above.

14. **SECURITY.** Company is advised that certain of the Services may be provided by way of the Internet using the BBVA Compass Remote Deposit (collectively "BBVA Compass Internet System.") Use of any such method of communication requires that Company receive and transmit information via connection to remote computers over telephone lines or other Internet connections. Company acknowledges that data, including e-mail, electronic communications, and confidential financial data, may be accessed by unauthorized third parties when communicated to BBVA Compass using the Internet or other network or dial-up communications facilities, telephone or any other electronic means. With respect to BBVA Compass Internet System access, Company agrees to use software produced by third parties, including, but not limited to, "browser" software that supports a data security protocol compatible with the protocol used by BBVA Compass. Until notified otherwise by BBVA Compass, Company agrees to use software that supports the Secure Sockets Layer (SSL) protocol or other

protocols accepted by BBVA Compass and to follow BBVA Compass' log-on procedures that support such protocols. Company acknowledges that BBVA Compass is not responsible for (i) notifying Company of any upgrades, fixes or enhancements to any such software; or (ii) any compromise of data transmitted across computer networks or telecommunications facilities, including, but not limited to, the Internet. With the exception of applications commonly known as web browser software, or other applications or access devices formally approved by BBVA Compass in writing, Company agrees not to (i) use any software, program, application or any other device to access or log on to BBVA Compass' computer systems, web site or proprietary software; or (ii) automate the process of obtaining, downloading, re-engineering, transferring or transmitting any information to or from BBVA Compass' computer systems, web site or proprietary software. In the event of any system failure, BBVA Compass may reserve the right to require additional documentation, including authorizations, from Company before accepting any order or re-instituting Company's access to the BBVA Compass Internet System. Company assumes full responsibility for its selection of, access to, and use of products purchased from BBVA Compass as indicated on the Implementation Form. Company shall be responsible for the confidentiality, maintenance, and use both of its financial information on the BBVA Compass Internet System, and of its access number(s), password(s), log-in ID(s), and account number(s). If Company requires more than one authorized signer's signature or authorization to conduct certain transactions related to Company's account(s) or the Services, this requirement will be deemed solely for Company's own purposes. BBVA Compass will not be liable to Company as long as at least one authorized signer's signature appears on the Company's checks, drafts, instructions, or orders, or if BBVA Compass' records indicate that a transaction, payment or other product use was made by or on behalf of one authorized signer by telephone, BBVA Compass Internet System, or other method. This includes situations in which Company has provided its access number(s), password(s), log-in ID(s) and/or account number(s) to someone else to use. Company agrees not to hold BBVA Compass liable for following Company's written orders or instructions. Company agrees not to hold BBVA Compass liable for any damages of any kind resulting from Company's disclosure of its access number(s), password(s), log-in ID(s), or account numbers to any person identified or not identified on the Implementation Form. Company will be responsible for all orders and instructions entered through and under Company's access number(s), password(s), log-in ID(s), and/or account number(s), and any orders or instructions so received by BBVA Compass will be deemed to have been received from Company. All orders and instructions shall be deemed to be made at the time received by BBVA Compass and in the form received. Company agrees to immediately notify (in the manner prescribed by BBVA Compass from time to time) BBVA Compass if Company learns of:

- any loss or theft of Company's access number(s), password(s), log-in ID(s) and/or account number(s); or
- any unauthorized use of any of Company's access number(s), password(s), log-in ID(s), and/or account number(s), or of the electronic Services or any of Company's information; or
- any receipt by Company of confirmation of an order that Company did not place; or any similarly inaccurate or conflicting report or information.

COMPASSVIEW® SERVICES

Upon Company's submission of a request for CompassView Services and the approval of the Service Instructions for this service,

or upon its use of the service, whichever occurs first, and in addition to its agreements set forth below with respect to provisions applicable generally to CompassView Services Company agrees:

Upon Company's submission of a request for CompassView Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, and in addition to its agreements set forth below with respect to provisions applicable generally to CompassView Services Company agrees:

1. **PC Access.** Use of the Program (as hereinafter defined) shall be subject to the terms and conditions contained in this Agreement applicable to the Program and Software (as hereinafter defined), all operating procedures established from time to time by BBVA Compass, Company's completion and delivery to BBVA Compass of all questionnaires and information required for the Service Instructions for the service, and all applicable state and federal laws and regulations.
2. **Software Security.** The Software requires the Company to designate a "System Administrator" to maintain password security and grant software access authorization to designated users. After the "System Administrator" has followed the instructions from the User Manual for assigning passwords to designate users, each designated user is responsible for safekeeping their individual password. The "System Administrator" is responsible for adding or deleting users and monitoring their corresponding passwords. BBVA Compass assumes no responsibility to discover, audit, or report to Company any possible breach of security by Company's agents or representatives for unauthorized disclosure or use of the password. Company agrees that the security procedures in this Section constitute commercially reasonable security procedures for the Company. Company accepts sole responsibility for safeguarding information regarding the security password provided for in using the Software and for any unauthorized or fraudulent use of the Software purportedly on Company's behalf. Company may not, at any time, disclose or disseminate the Software to any person who does not need to obtain access to the Software or the Program consistent with Company's rights under this Agreement. Under no circumstances may Company "unlock" the code of the Software, as the term is generally used in the trade. BBVA Compass claims and reserves all rights and benefits afforded under federal copyright law in all software programs and user materials that constitute the Software, and in all system documentation related to the Software, as unpublished works.

Company acknowledges that, in the event of Company's breach of any of the provisions, terms or conditions of any CompassView Services, BBVA Compass will not have an adequate remedy in money or damages. BBVA Compass shall therefore be entitled to obtain an injunction against the breach from any court of competent jurisdiction immediately upon request. BBVA Compass' right to obtain injunctive relief shall not limit its right to seek further remedies.

Company's obligations hereunder shall remain in effect for as long as Company continues to possess or use the Software or any trade secrets derived therefrom.

Company may use the program (to the extent then available and as modified or upgraded from time to time) supplied by BBVA Compass to Company (the "Program"), together with the software containing the Program (the "Software") to retrieve and view images of paid checks, other paper debit items, and paper credit items from a CD-ROM that contains images of items posted during the Company's designated statement period. Company may also request that paid checks or other MICR encoded items from a prior historical period be imaged onto a CD-ROM. BBVA Compass shall have no liability to Company for checks or other items from a prior historical period that are destroyed prior to imaging, provided that BBVA Compass will provide Company with a photocopy of checks or other items destroyed prior to imaging that were drawn on an account

maintained by Company at BBVA Compass. Company acknowledges that some checks or items from a prior historical period may not be in a physical condition adequate for imaging, and Company agrees to pay any processing fees for checks or items that are not capable of imaging and charges for the return of those checks and items.

PROVISIONS APPLICABLE TO SECURE FTP AND COMPASSVIEW SERVICES

The following provisions are each applicable to Secure FTP, and CompassView Services and are in addition to the provisions set forth above that are applicable specifically to those services. Upon Company's submission of a request for and the approval of the Service Instructions for any of these services, or upon its use of any of these services, whichever occurs first, Company agrees:

1. **Grant of Sub-License.** BBVA Compass grants to Company, and Company accepts from BBVA Compass, a nontransferable, nonexclusive right and sublicense to use the current version of the Software for, as applicable and as requested by Company, Secure FTP, or CompassView Services. The Software shall be used solely by individuals designated by Authorized Persons of Company as "System Administrators" (who may then designate and monitor the actual users of the Software and any limitations of their use). Company agrees to pay a one time fee for its sublicense of the Software. As used in these provisions applicable to Secure FTP, and CompassView Services, the terms "Program" and "Software" have the meanings as used, respectively, in the provisions of this Agreement specifically applicable to those services.
2. **Copies.** Company agrees that the source code and listings of Software shall not be copied except for backup and archival purposes. Software may not be copied onto any media (e.g., magnetic tape, paper tape, disk memory cartridges, read-only memory, etc.) for any other purpose without BBVA Compass' prior written authorization.
3. **Ownership and Use of Software.** The Software and all copies of the Software including partial copies, modifications or updated programs, are proprietary to BBVA Compass and its licensor and title to the Software remains in BBVA Compass' licensor. All applicable rights to patents, copyrights, trademarks and trade secrets in the Software are and shall remain in BBVA Compass' licensor. Company has no right to sell, assign, or in any other manner transfer or encumber the Software. Any modifications or additions to the Software made by Company shall not reduce BBVA Compass' rights or the responsibilities of Company under and this Agreement. At BBVA Compass' request, all Software (and copies thereof) shall be returned to BBVA Compass upon the termination of this Agreement.
4. **Agreements of Company.** In connection with its use of the Program and Software for the purposes provided in this Agreement, or otherwise, Company agrees to purchase hardware, software, support services, communication equipment and links as specified by BBVA Compass. Company shall be solely responsible for ensuring equipment compatibility with BBVA Compass' equipment and the Program. All hardware and phone line(s) will be purchased and maintained by Company.
5. **Modifications; Format and Media.** Company acknowledges and agrees that, from time to time, the Software may be modified. BBVA Compass agrees to convey any modifications to Company promptly upon receipt by BBVA Compass, and Company agrees to utilize the modifications as so instructed. However, BBVA Compass has no responsibility for the format and media guidelines, or any other characteristics of the Software, other than its obligation to make reasonable efforts to notify its licensor of problems when requested in writing by Company.

6. **Confidentiality.** The source code, listings, magnetic media, and any Company support materials and documentation supplied under this Agreement, as well as the ideas and concepts incorporated in those items, are confidential to and trade secrets of BBVA Compass and its licensor ("PC Confidential Information"). Company agrees to provide PC Confidential Information only to those employees, agents, and independent contractors who are required to know of its existence. Company shall inform all such individuals of the confidential nature of the PC Confidential Information, and such persons shall be bound by the terms and conditions of this Agreement. Company further agrees to take all other actions necessary or appropriate to preserve the confidentiality of the PC Confidential Information and to protect and secure the Software in a manner consistent with BBVA Compass' rights. Except as specifically provided in this Agreement, Company agrees not to publish, disclose, display, or otherwise make available any PC Confidential Information without the advance written consent of BBVA Compass.
7. **Company's Additional Representations, Warranties and Covenants.** Company represents and warrants that all instructions or communications submitted to BBVA Compass by the Company by use of the Program and the Software fully satisfies and complies with all applicable requirements of all applicable laws and regulations. Company expressly warrants (a) that Company is not a "Consumer" as defined in section 205.2(e) of Regulation E promulgated by the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and (b) that all transactions initiated by Company using the Program or Software are for commercial purposes, and not for personal or household purposes.
8. **BBVA Compass' Representations and Warranties.** Subject to all terms of this Agreement, BBVA Compass warrants that it has the right to grant the sub-license to the Software. In the event the Software of any portion of the Software is held to constitute an infringement of any third party's rights, and use of the Software by Company is enjoined, BBVA Compass shall, at its election: (a) promptly procure the right for Company; or (b) notify Company of its intent to discontinue use of the Software.
9. **Disclaimer of Warranty.** COMPANY ACKNOWLEDGES THAT THE SOFTWARE MUST INTERFACE WITH BBVA COMPASS' COMPUTERS, AND ASSUMES THE RISK THAT BBVA COMPASS' COMPUTERS MIGHT NOT BE OPERATIONAL OR COMPATIBLE AT ALL TIMES. EXCEPT AS PROVIDED IN THE WARRANTY BELOW, BBVA COMPASS MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE SOFTWARE OR ITS USE AND DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY ACKNOWLEDGES THAT THE SOFTWARE AND MAY NOT OPERATE ERROR-FREE OR WITHOUT INTERRUPTION. COMPANY AGREES THAT BBVA COMPASS SHALL NOT HAVE LIABILITY TO COMPANY BASED ON NONPERFORMANCE, DEFECT OR FAILURE OF THE SOFTWARE OR BBVA COMPASS' COMPUTER TO PERFORM PROPERLY.
10. **Warranty and Exclusive Remedy.** BBVA Compass does not warrant that the Software is error-free and BBVA Compass shall not be liable for any losses or damages associated with any errors in the Software. If Company discovers what it believes to be an error in the Software, it shall bring the error to the attention of BBVA Compass. Upon verification of the error, BBVA Compass shall request its vendor to make reasonable efforts to correct the error or find alternative means of accomplishing the task in question provided that neither BBVA Compass nor its vendor shall be obligated to correct, cure, or otherwise remedy any nonconformity or defect in the Software if Company has made any changes to the Software, if the Software has been misused or damaged in any respect, or if Company has not reported to BBVA Compass the existence and nature of such nonconformity or defect promptly upon its

discovery. If BBVA Compass or its vendor are unable to do this, Company may, at its option, terminate the service. Company shall not receive any refund. This right to terminate constitutes Company's sole and exclusive remedy for any failure of the Software to operate properly or failure to operate in accordance with its documentation.

CONTROLLED DISBURSEMENT SERVICES

Upon Company's submission of a request for Controlled Disbursement Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Disbursement Services.** BBVA Compass is authorized and instructed to establish a demand deposit account in Company's name (the "Disbursement Account") and to transfer collected funds from the Company's demand deposit account located at BBVA Compass (or an affiliate of BBVA Compass, as the case may be) (the "Master Account") or any other account of Company, to the Disbursement Account in order to pay checks and items drawn on, and charges against, the Disbursement Account. Company agrees to maintain in the Master Account (which may be a Company Account) at all times in collected, immediately available funds, from whatever source, an amount equal to the sum of all charges to and checks or other items presented against the Disbursement Account. Company authorizes and directs BBVA Compass, at any time and without prior notice to Company, to transfer to the Disbursement Account from the Master Account funds in the amount needed to pay any checks, items or charges presented against or payable from the Disbursement Account.
2. **Checks Drawn on Disbursement Account.** All deposit slips and all checks drawn on the Disbursement Account shall be in a format approved by BBVA Compass and shall contain routing transit numbers and other information required by BBVA Compass. Specifically, all checks will be printed on MICR-Bond paper, having a minimum weight of 24 pounds. The magnetic encoding on each check will include correct routing number, account number, and serial number. Company will provide a sample of checks to BBVA Compass from each check printing (as directed on the check printing specifications), including subsequent reorders, for the purpose of testing MICR quality.
3. **Overdrafts.** If, at any time, the Master Account, after deducting any amounts payable from or chargeable to the Master Account, fails to contain collected, immediately available funds in the amount required to pay the total aggregate amount of checks, items, and charges payable against or chargeable to the Disbursement Account, the Company shall be liable for BBVA Compass' demand deposit checking account "insufficient funds" charges and any other applicable fees or charges in effect from time to time and BBVA Compass may, in its sole discretion, do any one or more of the following, without the necessity of any prior written notice to Company:
 - (a) Pay in any order any one or all of the checks, items, or charges and charge the amount of any payment to the Disbursement Account, thereby causing an overdraft to be created in the Disbursement Account subject to BBVA Compass' overdraft policies and charges; or
 - (b) Dishonor in any order any one or all of checks or items and return the checks or items to the presenter, in which case BBVA Compass' demand deposit checking account terms shall apply, including, but not limited to, BBVA Compass' insufficient funds and returns policies or charges.
4. **Presentment Procedures.** Daily notification of the checks presented against the Disbursement Account will occur no later than 10:00 a.m., Central time. BBVA Compass shall make available this information to Company daily by electronic

balance reporting, or other means acceptable to BBVA Compass and Company. Should BBVA Compass be unable to determine, prior to 1:00 p.m. Central time, the exact amount of checks presented for payment, then the Company and BBVA Compass will estimate and the Company will fund a mutually agreed upon amount. Any excess or deficit between the estimated amount and the amount of actual checks presented will be compensated by (over or under) funding on the following business day. This (over or under) funding will achieve a net zero collected balance average over the two business day time period. If on any day checks are presented and the Company is closed for business, the Company must make prior arrangements regarding estimated funds to be deposited in the Master Account for that day's checks. The Company recognizes and agrees that BBVA Compass reserves the right at all times to return, unpaid, by the applicable midnight deadline, any checks presented against the Disbursement Account which have not been paid and to close the Disbursement Account should BBVA Compass deem advisable. The term "midnight deadline" means the time by which BBVA Compass must return an item in order to dishonor it under applicable provisions of the Uniform Commercial Code, or, if applicable, local clearinghouse or other rules. Company agrees that BBVA Compass and each of its affiliates where the Disbursement Account or the Master Account is located have a right to set-off any sums owing respectively to BBVA Compass or any affiliate of BBVA Compass' by Company in the event of a breach of this Agreement by Company. Nothing in this Agreement shall effect or modify BBVA Compass' or any of BBVA Compass' affiliate's rights of set-off as allowed under applicable law. Company pledges and grants a security interest in all deposits on deposit at BBVA Compass and each of its affiliates as security for any credit, including payment of items without sufficient funds, extended by BBVA Compass or any of its affiliates to the Company.

DRAFT SERVICES

Upon Company's submission of a request for Draft Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

For purposes of the services described in this section, the following terms shall have the designated meanings:

1. **Definitions.**
 - (a) "Accompanying Documentation" means documents presented by the payee of a Draft or their authorized agent that are required by Company.
 - (b) "Available Funds" means funds on deposit in a Designated Account and available for withdrawal in accordance with BBVA Compass' applicable funds availability schedule.
 - (c) "Designated Account(s)" means, for the purposes of the Draft Services, the account or accounts of Company maintained at BBVA Compass and designated from time to time in the Service Instructions for the Draft Services. BBVA Compass shall provide the Draft Services only with regard to Designated Accounts of Company.
 - (d) "Disposition Deadline" means the time by which Company is required to provide BBVA Compass with a "pay" (honor) or "return" (dishonor) decision on each Draft presented for payment on Appropriate Banking Day (as defined below). Due Dates stated on a collection letter or a Draft shall determine the Disposition Deadline.

All other terms, not otherwise defined herein, shall have the meanings set forth in Articles 3 and 4 of the Uniform

Commercial Code, as adopted in the state in which BBVA Compass maintains Company's accounts ("UCC").

- (e) "Draft or Drafts" means drafts drawn on Company, payable at or through BBVA Compass and received in collection letters or as demand items
- (f) "Draft Service" means the presentment to Company as a Draft is received and its disposition in accordance with any user guide, reference material, applicable law, regulation, rule or industry practice.

2. Presentment of Drafts.

All Drafts that are received by BBVA Compass pursuant to this Agreement shall contain on the face of the instrument the words "draft" and that such draft is "payable through BBVA Compass." Any item that does not contain the words required hereunder, or that is ambiguous on its face, may be treated by BBVA Compass as a draft, and Company shall indemnify and hold BBVA Compass harmless for any liability that BBVA Compass might incur as a result of so treating such item. The effect of a Draft is to designate BBVA Compass as a collecting bank to make presentment, and the Draft does not authorize BBVA Compass to pay the Draft. Company shall specify the due date on any Draft (the "Due Date"). Due Dates may be from twenty-four (24) hours to seven (7) days from presentment of the Draft for payment. If a Draft fails to specify a Due Date, BBVA Compass will assume a Due Date of twenty-four (24) hours from presentment of a Draft. BBVA Compass shall make presentment of the Drafts and all Accompanying Documentation to Company on the same banking day if received by BBVA Compass' published notice time (as modified from time to time), or if not received prior to the published time on the following banking day (an "Appropriate Banking Day").

Automobile Dealer Drafts: BBVA Compass will deliver the drafts to Company, or their designate in one of our branches, by commercial courier, or delivery to your agent at BBVA Compass offices, as provided in the Service Instructions. BBVA Compass will notify Company of any Drafts received by our published notice time on the same business day, or the following business day depending on your proximity to our Houston, Texas processing center, that we receive them. The day of this notice is called the "Appropriate Banking Day."

Oil & Gas Lease Drafts: Each time we receive an Oil and Gas Lease Draft, BBVA Compass will produce a collection letter specifying the draft payee(s), draft amount, receiving date of the draft and the draft due date. BBVA Compass will fax to Company a copy of the collection letter, an image of the front and back of the draft, and any attachments. If Company receives the fax and deems it illegible, it is the responsibility of Company to notify BBVA Compass immediately upon receipt.

3. Draft Disposition.

- 4. **Automobile Dealer Drafts:** If Company wishes to dishonor any Draft, Company must do so by the due date. To dishonor it, the Company must physically return the draft to BBVA Compass. If Company dishonors a draft, BBVA Compass will return it to the payee stamped "returned at request of drawer." The records of BBVA Compass with regard to dishonor of Draft shall be deemed conclusive and binding upon Company. If Company fails to notify BBVA Compass of a "return" (dishonor) decision and deliver the Draft to BBVA Compass by the Disposition Deadline, BBVA Compass will (provided there are Available Funds in the Designated Accounts to pay the Draft) pay the same and charge the Designated Accounts.

Oil & Gas Lease Drafts: Payment Instructions must be received on or before the "due date" on the collection letter. These instructions should be in written form and may be faxed to BBVA Compass. Company must include in your payment instructions the following information:

- Maker's Name
- Amount of Draft
- Draft Number
- Payment Instructions
- Your Account Number
- Authorized Signature of Account Holder

Once payment is made of your draft(s), BBVA Compass will either mail the draft(s) to you or you may arrange to have them picked up at a BBVA Compassing Office of your choice. If a Banking Office location is specified, please allow one (1) day delivery to the location.

- 5. **Payment for Drafts.** Company must tender sufficient Available Funds to pay all Drafts that have been dishonored by the applicable Dishonor Deadline. If Company does not have sufficient available funds in the Designated Account through which a Draft is payable, BBVA Compass may deem that Draft dishonored and may return it, regardless of Company's instructions to BBVA Compass, without liability for wrongful dishonor. Company authorizes BBVA Compass to immediately and without notice charge Company's Designated Accounts or any other account of Company for the amount of any Draft it has accepted.
- 6. **Responsibilities of Bank.** BBVA Compass assumes no responsibility for the genuineness of any Draft or endorsements on any Draft or the sufficiency or genuineness of the Accompanying Documentation.
- 7. **Indemnification and Release of BBVA Compass.** Company agrees to indemnify and hold BBVA Compass harmless from any and all liabilities, claims and expenses of any kind or nature whatsoever arising out of its use of Draft Services (including the reasonable fees and disbursements of counsel in connection with any investigative, administrative, or judicial proceeding, whether or not any indemnified person shall be designated a party thereto); provided that Company shall have no obligation to any indemnified person hereunder with respect to any such liabilities, claims or expenses arising from the gross negligence or willful misconduct of such indemnified person. BBVA Compass shall have the right to set off immediately, and without demand, any account or credit of Company in BBVA Compass' possession for the amount of any such damage or loss. Company does hereby remise, release, acquit, satisfy and forever discharge BBVA Compass, and all of the past, present and future officers, directors, employees, agents, attorneys, representatives, and assigns of BBVA Compass from any and all manner of controversies, arguments, liabilities, obligations, expenses, damages, actions, claims, demands and causes of action of any nature whatsoever, whether at law or in equity, either now accrued or hereafter maturing or whether known or unknown, which Company now has or hereafter can, shall or may have by reason of any manner, cause or things, from the date of this Agreement to the termination of this Agreement in connection with or related to this Agreement or the Draft Services.
- 8. **No Extension of Credit.** Nothing herein nor any course of dealing between Company and BBVA Compass constitutes a commitment or obligation of BBVA Compass to lend money to Company or obligates BBVA Compass to extend any credit to Company, to make a loan to Company, or otherwise to advance funds to Company to pay for any Draft contrary to BBVA Compass' published availability schedules. If BBVA Compass pays a Draft when Company has insufficient funds in a Designated Account, Company shall immediately pay and reimburse BBVA Compass for the resulting overdraft.

9. **Limitation of Liability.** The sole duty of BBVA Compass is to exercise ordinary care in the performance of the obligations under the Service Instructions and this Agreement. In no event shall BBVA Compass be liable for any indirect damages, including without limitation any consequential, incidental, special or exemplary damages, even if BBVA Compass has been specifically advised of the possibility of such damages. THE MAXIMUM LIABILITY OF BBVA COMPASS UNDER ANY CIRCUMSTANCE SHALL BE LIMITED TO COMPANY'S FEES FOR DRAFT SERVICES HEREUNDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE ACT OR OMISSION GIVING RISE TO SUCH LIABILITY. BBVA COMPASS AND AFFILIATES MAKE NO WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OF ANY OF THE DRAFT SERVICES PROVIDED UNDER THIS AGREEMENT. NO ACTION UNDER THIS AGREEMENT, MAY BE BROUGHT BY COMPANY MORE THAN ONE YEAR AFTER SUCH CAUSE OF ACTION ACCRUES.
 10. **Fees.** Company agrees to pay BBVA Compass' prevailing charges in effect from time to time for the Draft Services, which charges will be recouped by applying accumulated earnings credits if Company subscribes to Account Analysis. Company agrees to reimburse BBVA Compass upon demand if such charges are not paid when due in arrears.
 11. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument.
 12. **General Rules and Regulations Applicable.** Company acknowledges that all Designated Accounts of Company maintained at BBVA Compass shall be subject to the applicable Deposit Account Agreement of BBVA Compass.
 13. **Foreign Currency.** In the event that the Draft Services shall require the payment, transfer or deposit of funds in a currency other than U.S. dollars, all such transactions shall be at the rate established by BBVA Compass from time to time.
- (b) "Document Management Imaging System" means the use of a computer system and software to store, manage and track electronic documents and electronic images of paper based information captured through the use of a document scanner. Documents can be shared by all Designated Users on the system and routed through an established electronic workflow.
 - (c) "PO Box" refers to a uniquely addressable lockable box that is assigned to Company and located on the premises of a United States Postal Office (USPS), where mail for Company is kept until collected.
 - (d) "Maintenance Window" is a period of time designated in advance by BBVA Compass, during which software updates that could cause disruption of e-Invoicing may be performed.
 - (e) "Virtual Token" refers to a unique one-time password generated for Designated Users each time they access the e-Invoicing System. It is used to prove one's identity electronically as a form of authentication. A text containing a password is sent to each Designated User's mobile telephone number for every login to e-Invoicing. Designated Users need to enter the 6-digit one-time use password that they receive via SMS message on their cell phone to complete the login process.
2. **Installation and Maintenance.** BBVA Compass or its Provider (as defined below) will configure and install the Document Management Imaging System for Company on a server at a secure data center used for e-Invoicing. Occasional Maintenance Windows involving a planned outage may occur. All planned outages for maintenance and software updates will be communicated to Company in advance before the event.
 3. **Dedicated PO Box.** BBVA Compass will open and maintain a dedicated PO Box specifically for the Company where Company can direct its vendors and suppliers to mail paper invoices. BBVA Compass will pick up mail from the dedicated PO Box at the USPS facility on a pre-determined schedule defined in the user guide for e-Invoicing.
 4. **Dedicated Fax.** BBVA Compass will maintain a dedicated fax number for Company, if requested. Company can direct its vendors and suppliers to fax paper invoices to the dedicated fax number. BBVA Compass agrees to monitor incoming faxes during regular business hours and deliver the incoming faxes directly to the scanning and indexing department.
 5. **Dedicated Email Address.** BBVA Compass will maintain a dedicated email address for Company, if requested. Company can direct its vendors and suppliers to email electronic invoices to the dedicated email address. An invoice may be considered electronic even if it originated as a paper invoice and was digitally converted to a Portable Document Format (PDF). BBVA Compass agrees to monitor incoming emails during regular business hours (Central Time) and electronically deliver the emails directly to the scanning and indexing department.
 6. **Scanning and Indexing of Invoices.** BBVA Compass agrees to have all invoices scanned, indexed and available for viewing on the Document Management Imaging System within forty-eight (48) hours from receipt of the documents at the secure production facility. The facility is closed on U.S. federal holidays and Sundays. After the data is inputted into the Document Management Imaging System, Company will notify BBVA Compass within five (5) business days of availability on the Document Management Imaging System of any errors or omissions. BBVA Compass will use its best efforts to correct any resulting errors in its own records, or in any reports it has prepared and provided to Company. BBVA Compass is not liable or responsible for any errors not reported by Company within five (5) business days from the availability of the data on the Document Management Imaging System.

EDI NOTIFICATION

Upon Company's submission of a request for EDI Notification Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

BBVA Compass will provide Company with EDI notification services. By facsimile, Compass e-Access Online Services, Compass e-Transmit Online Services, United States Mail or other transmission medium mutually selected by BBVA Compass and Company, BBVA Compass will transmit to Company on a transaction basis the ACH text and addenda information for each incoming ACH entry credited or debited to a Company Account.

E-INVOICING

Upon Company's submission of a request for the e-Invoicing Service ("e-Invoicing") and the approval of the instructions for this service, or upon its use of this service, whichever occurs first, Company agrees:

1. **Definitions.** In addition to the capitalized terms defined elsewhere in this Agreement the terms below shall have the following meaning:
 - (a) "Designated User" refers to employees at Company who are given access to the e-Invoicing service by Company's Corporate Administrator.

7. **Electronic Archive of Invoice Images.** Images of invoices and associated metadata will be retained for a minimum of seven (7) years and may be accessed by Company using the Document Management Imaging System.
8. **Ownership of Invoice Data and Images.** All data resident on the server maintained by BBVA Compass will remain the sole property of Company. If Company requests the data, BBVA Compass will download all the images and respective index fields onto a remote hard drive or CD-ROM and render these images in a TIFF image format. Programming charges and fees per CD-ROM or hard drive may apply.
9. **Electronic Workflow.** Each action of e-Invoicing is custom-configured to Company's business rules and processes. Company may establish an unlimited number of business rules to process each invoice.
10. **Reports.** E-invoicing includes certain reports as set forth in the user guide. Any additional reports are considered custom reports and will incur a programming fee to build each initial report and a monthly hosting fee will be assessed thereafter.
11. **Vendor and Supplier Master List.** BBVA Compass requires Company to provide an initial vendor and supplier data file for developing the electronic workflow rules and establishing indexing parameters. After the initial file, Company will need to provide BBVA Compass with an updated vendor and supplier data file on a regular basis to ensure the integrity of the invoice data captured. BBVA Compass is not responsible for mismatches on invoice indexing and processing due to inaccuracies on Company's vendor and supplier master list.
12. **Purchase Order and Shipping/Receiving Master Lists.** Depending on Company's processing rules, Company may elect to transmit data from its purchase ordering system and/or its shipping/receiving system to match against incoming invoices. BBVA Compass will process the data according to the rules established during implementation. It is the responsibility of Company to ensure that purchase order data and/or shipping/receiving manifests are electronically transmitted to BBVA Compass on a timely basis to match against incoming invoices. BBVA Compass is not responsible for mismatches on invoice indexing and processing due to inaccuracies on Company's purchase order or supplier/receiver master lists.
13. **Internet Security.** Company shall designate in writing to BBVA Compass an individual (the "Corporate Administrator") to serve as its system and security administrator for e-Invoicing. The Corporate Administrator shall be responsible for (a) granting and revoking authority to Designated Users to access e-Invoicing and use the online services, (b) defining the scope of authority for each Designated User, and (c) defining those accounts maintained by Company at BBVA Compass for which each Designated User shall have access and responsibility. After Company has designated to BBVA Compass the identity of the Corporate Administrator, BBVA Compass shall provide the Corporate Administrator with the internet address of e-Invoicing on which the online services shall be accessible. The Corporate Administrator shall set-up each Designated User on e-Invoicing.

Each Designated User will be required to use Virtual Tokens in addition to a User Name and Password with the e-Invoicing system. The Virtual Tokens must be used to gain access to e-Invoicing, and BBVA Compass will not allow access to e-Invoicing without the Virtual Tokens.

Company agrees that use of the Virtual Tokens will authenticate the identity of each Designated User. Company is responsible for maintaining the confidentiality of all Virtual Tokens, and for implementing the necessary internal controls, balancing and reconciliation functions, and audit procedures to prevent unauthorized use of e-Invoicing. Company agrees that the use of the Virtual Tokens constitutes a commercially reasonable security procedure for Company. Company also agrees to be

bound by all requests, communications, or other instructions to BBVA Compass that are initiated using e-Invoicing and in compliance with this security procedure, regardless of whether or not Company actually authorized the instruction. If any instruction initiated through e-Invoicing and accepted by BBVA Compass in compliance with this security procedure contains any error, to the full extent allowed by law, Company shall be liable for, and shall indemnify BBVA Compass against any claims, losses and expenses BBVA Compass may incur that arises from or relates to the erroneous instructions. BBVA Compass' records demonstrating compliance with this security procedure will be deemed conclusive proof that the payment order received by BBVA Compass was authorized and that Company is bound by those instructions.

14. **BBVA Compass Representations and Warranties.** Subject to all terms of this Agreement, BBVA Compass warrants that it has the right to grant the sublicense to the Document Management Imaging System. In the event Document Management Imaging System, or any portion thereof, is held to constitute an infringement of any third party's rights, and use thereof is enjoined, BBVA Compass shall, at its election: (a) promptly procure the right for Company; or (b) notify Company of its intent to discontinue use of the Document Management Imaging System.
15. **Limitation of Liability; Indemnity.** Notwithstanding any other provision of this Agreement or any other agreement between BBVA Compass and Company, neither BBVA Compass nor any of its suppliers, licensors, service providers or vendors (collectively, including BBVA Compass, the "Providers") shall have any liability for any liabilities, losses, damages, claims, judgments, costs or expenses (collectively, "Damages") that Company asserts or sustains as a result of Company's use of e-Invoicing.
16. **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, E-INVOICING AND THE DOCUMENT MANAGEMENT IMAGING SYSTEM ARE PROVIDED FOR COMPANY'S USE DURING THE TERM HEREOF "AS IS" AND "WHERE IS", AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BBVA COMPASS AND THE OTHER PROVIDERS MAKE NO REPRESENTATIONS OR WARRANTIES AND DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO E-INVOICING DOCUMENT MANAGEMENT IMAGING SYSTEM, OR USE OF E-INVOICING BY COMPANY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY AND NON-INFRINGEMENT. BBVA COMPASS DOES NOT WARRANT THAT THE OPERATION OF E-INVOICING OR DOCUMENT MANAGEMENT IMAGING SYSTEM WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM ANY OTHER PROGRAM LIMITATIONS. BBVA COMPASS DOES NOT MAKE ANY REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF E-INVOICING OR DOCUMENT MANAGEMENT IMAGING SYSTEM IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. COMPANY ACKNOWLEDGES THAT IT MUST PROVIDE ALL EQUIPMENT AND PROVIDE AND MAINTAIN SERVICE THROUGH AN INTERNET SERVICE PROVIDER ("ISP") SUITABLE TO ACCESS E-INVOICING AND IS SOLELY RESPONSIBLE FOR ALL FEES, COSTS AND CHARGES ASSOCIATED WITH AND MAINTENANCE OF SUCH EQUIPMENT OR SERVICE. COMPANY ACKNOWLEDGES THAT ITS ISP MAY HAVE UNINTENDED EFFECTS ON COMPANY'S USE OF E-INVOICING AND THE ABILITY TO CONDUCT OR TRANSACT ONLINE SERVICES (INCLUDING, WITHOUT LIMITATION, COMPANY'S ABILITY TO ACCESS E-INVOICING), AND THAT BBVA COMPASS SHALL HAVE NO RESPONSIBILITY FOR SUCH EFFECTS. COMPANY ACKNOWLEDGES THAT THE DOCUMENT MANAGEMENT IMAGING SYSTEM MUST INTERFACE WITH BBVA

COMPASS' COMPUTERS, AND ASSUMES THE RISK THAT BBVA COMPASS' COMPUTERS MIGHT NOT BE OPERATIONAL OR COMPATIBLE AT ALL TIMES. COMPANY FURTHER ACKNOWLEDGES THAT BBVA COMPASS SHALL HAVE NO LIABILITY OR RESPONSIBILITY FOR THE SATISFACTORY PERFORMANCE OF COMPANY'S HARDWARE AND SOFTWARE USED TO INITIATE OR RECEIVE COMMUNICATIONS OVER THE INTERNET. COMPANY ALSO ACKNOWLEDGES THAT ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF E-INVOICING IS DONE AT COMPANY'S OWN DISCRETION AND RISK AND THAT COMPANY WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO COMPANY'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

17. **Proprietary Rights.** Company acknowledges that BBVA Compass or the other Providers shall retain all rights, title and interests in and to e-Invoicing, the Document Management Imaging System (including, without limitation, the source code, listings, magnetic media and any support materials related thereto), as well as the ideas and concepts incorporated in those items, and all modifications, improvements and enhancements thereof and additions thereto, including ownership of all trade secrets, copyrights and other associated proprietary and intellectual property rights pertaining thereto (collectively, the "Intellectual Property Rights"), except as granted hereunder. Company shall not take any action that is inconsistent with the Intellectual Property Rights of BBVA Compass or any Provider, nor shall it take any actions or engage in any conduct that violates the Intellectual Property Rights of BBVA Compass or any other Provider.

The Document Management Imaging System includes trade secrets and other proprietary information of BBVA Compass and its suppliers, licensors, service providers and vendors and are confidential property of such person(s) or legal entity(ies). Company shall treat as confidential and shall not disclose or otherwise make available the Document Management Imaging System (collectively, the "Confidential Information"), in any form, to any person other than Company's employees who have a need to know such Confidential Information. Company shall not attempt to nor shall it reverse engineer, disassemble, decompile or otherwise attempt to derive source code from Confidential Information, make the Confidential Information available to any third parties, modify, adapt, translate or create derivative works based upon such Confidential Information, or permit or authorize any third party to do any of the foregoing. Company will instruct its employees who have access to the Confidential Information to keep the same confidential, by using the same care and discretion which Company uses with respect to its own confidential property and trade secrets. Company agrees that it shall not take any action to change or make any modification to e-Invoicing or the Document Management Imaging System.

18. **Company's Additional Representations, Warranties and Covenants.** Company represents and warrants that each electronic communication submitted to BBVA Compass by the Company by use of e-Invoicing fully satisfies and complies with all applicable requirements of all applicable laws and regulations. Company expressly warrants (a) that Company is not a "Consumer" as defined in Section 205.2(e) of Regulation E promulgated by the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and (b) that all transactions initiated by Company using e-Invoicing are for commercial purposes, and not for personal or household purposes.
19. **Termination.** Notwithstanding any other provision regarding termination set forth herein or in any other agreement between BBVA Compass and Company, BBVA Compass may terminate Company's access to and its ability to transact online services through e-Invoicing at any time, effective immediately. BBVA

Compass shall use reasonable efforts to communicate notice of the termination to Company promptly, and will thereafter provide written confirmation of the Termination if the initial notice of termination was not communicated in writing. BBVA Compass may require Company to execute additional documents or agreements to continue to conduct or transact online services through or by use of e-Invoicing at any time.

FILE TRANSFER SERVICES

Upon Company's submission of a request for File Transfer Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, and in addition to its agreements set forth below with respect to provisions applicable generally to File Transfer Services, Company agrees:

1. **Description of Service.** File Transfer Services ("File Transfer Services") is a file transfer method for companies to exchange large files and sensitive data (and images if applicable) with Bank over the internet. Through access to and use of File Transfer Services, Company may conduct certain Treasury Management services and functions, as designated in the File Transfer Services implementation forms, Request for Treasury Management Services and Data Transmissions Guides (the "Treasury Management Services").
2. **Access.** Company's use of File Transfer Services shall be subject to these terms and conditions, all instructions and guidelines established from time to time by BBVA Compass, all applicable software and user documentation terms and conditions, and all applicable state and federal laws and regulations. Company will only be granted access to, and agrees only to access, File Transfer Services to transact or conduct Treasury Management Services. Company may transact only those File Transfer Services that BBVA Compass has agreed to provide and has implemented for Company.
3. **Security.** For accessing the File Transfer Services both parties will carry out the confirmation and authentication processes necessary for the applicable protocol (FTPS, SFTP, or any other mutually agreed upon communication protocols, hereinafter "File Transfer Services Protocols") and Company will comply with all security requirements set forth herein

The Treasury Management Services using File Transfer Services shall be subject to all other terms and conditions applicable to those specific services as set forth in this Agreement.

Company shall designate in writing to BBVA Compass those individuals who will be the system administrator ("System Administrator") for File Transfer Services. The designating document must contain the original signatures of the person whose signature appears on the Authorization Certificate for the BBVA Compass Treasury Management Services Agreement. The System Administrator will be the person who receives the Company's user identification ("User ID"), user password ("User Password") and any other information required to utilize File Transfer Services. The System Administrator will also be responsible for providing all information to BBVA Compass, including, but not limited to, public keys, necessary to utilize File Transfer Services.

If Company desires to change or add a designated System Administrator, Company shall provide prior written notice to BBVA Compass of such change, signed by a person whose signature appears on the Authorization Certificate for the BBVA Compass Treasury Management Services Agreement. The notice may be telefaxed or emailed to BBVA Compass, but it must be followed by a document with an original signature on it. No change of designated System Administrator by Company shall be effective until accepted by BBVA Compass, and BBVA

Compass has had a reasonable opportunity to update its records.

Company shall be responsible for initiating, undertaking and supervising all safety and security precautions and programs under its control, dominion or supervision in connection with the File Transfer Services.

Company shall implement and maintain adequate information security measures to protect against unauthorized access to or use of File Transfer Services Service, including, without limitation: (i) access controls on information systems, including controls to authenticate and permit access only to authorized individuals and controls to prevent employees from providing Access Devices (as defined below) to unauthorized individuals who may seek to obtain this information through fraudulent means; (ii) encryption of electronic Information while in transit over any network (LAN/WAN including MPLS) using well known (non-proprietary) encryption algorithms with a minimum key length of 128 bits; (iii) procedures designed to ensure that information system modifications are consistent with the information security measures; (iv) monitoring systems and procedures to detect actual and attempted attacks on or intrusions into information systems; (v) response programs that specify actions to be taken when Company detects unauthorized access to information systems, including immediate reports to BBVA Compass (vi) training of staff to implement the information security measures; (vii) maintain all systems and applications current with latest release of software and/or security packs, security patches, and security hot fixes; (viii) regular testing of key controls, systems and procedures of the information security measures by independent third parties or staff independent of those that develop or maintain the security measures; (ix) appropriate firewalls and access control lists between all Company and BBVA Compass networks, with only required traffic allowed between networks.

Company will be responsible for safekeeping all keys, access codes, combinations, access cards, personal identification numbers, User ID, User Password and any other applicable credentials and similar security codes or identifiers (each an "Access Device") issued to Company personnel. This obligation will include, but not be limited to, development and implementation of written procedures and processes for safekeeping and security of the Access Devices. Company will make its written safekeeping and security procedures and processes available to BBVA Compass at or prior to the Effective Date of this Agreement and thereafter from time to time, at BBVA Compass' reasonable request. BBVA Compass will have the right to review and audit Company's safekeeping and security procedures, processes, and activities. Company will be responsible for any losses or damages BBVA Compass incurs in connection with a lost or stolen Access Device or other breaches of these security requirements.

Company acknowledges that while BBVA Compass will attempt to ensure that all electronic communications between Company and BBVA Compass are encrypted, scrambled or otherwise protected against interception by a person whose access to the File Transfer Services is unauthorized, Company nonetheless accepts and assumes all risk of loss or dissemination of information attributable to the electronic communications between Company and BBVA Compass through a File Transfer Service.

If Company, System Administrator or any designated contact believes that one or more Access Device have become known or obtained by unauthorized persons (whether or not employed by Company), the Company shall immediately notify BBVA Compass to enable BBVA Compass to disable the affected Access Device(s). Additionally, BBVA Compass may change or disable any Access Device at any time and for any reason. If BBVA Compass takes such action, BBVA Compass will make every reasonable effort to notify Company promptly. BBVA Compass assumes no responsibility to discover, audit, or report

to Company any possible breach of security by Company's agents or representatives or anyone else for unauthorized disclosure or use of Access Devices. Company acknowledges that the security procedures in this Section constitute commercially reasonable security procedures for the Company.

If Company is unable to access File Transfer Services or transact or conduct any business through the File Transfer Services, Company shall immediately notify BBVA Compass of such inability but shall transact or conduct such business through other means available to Company.

BBVA Compass claims and reserves all rights and benefits afforded under federal copyright law in all software programs and user materials that constitute the Software, and in all system documentation related to the Software, as unpublished works. Company hereby authorizes BBVA Compass to enter Company's premises in order to inspect the Software in any reasonable manner during regular business hours.

Company acknowledges that, in the event of Company's breach of any of the foregoing provisions, BBVA Compass will not have an adequate remedy in money or damages. BBVA Compass shall therefore be entitled to obtain an injunction against the breach from any court of competent jurisdiction immediately upon request. BBVA Compass' right to obtain injunctive relief shall not limit its right to seek further remedies.

Company's obligations hereunder shall remain in effect for as long as Company continues to use File Transfer Services.

4. **Authorized Transactions.** BBVA Compass may rely upon any Treasury Management Service transacted or conducted through or by use of File Transfer Services as properly authorized by Company (including, without limitation, any instructions or information related thereto it receives from Company through a File Transfer Service). Each System Administrator to whom BBVA Compass has provided access to Company Codes, or who has otherwise obtained access to Company Codes, is deemed an authorized representative of Company for purposes of all Treasury Management Services transacted or conducted through or by use of File Transfer Services, whether or not such person is authorized by this Agreement or any other agreement between BBVA Compass and Company.

Notwithstanding the terms of any Treasury Management Services Agreement or any other agreement between Company and BBVA Compass, once Company accesses BBVA Compass File Transfer Services to transact or conduct any Treasury Management Service, BBVA Compass will not verify that the transaction is authorized and Company is solely responsible for the accuracy and completeness of any data or information received by BBVA Compass. BBVA Compass is authorized by Company to process transactions in accordance with information BBVA Compass receives electronically from Company. Company shall be solely responsible for the information contained in the instructions and BBVA Compass shall have no responsibility for erroneous data provided by Company. BBVA Compass shall have no liability for losses resulting from or related to Company's failure to limit access to File Transfer Services or maintain the confidentiality of the Company Codes. At the sole discretion of BBVA Compass, BBVA Compass may also require the use of other identifying information or other security procedures for certain Treasury Management Services and BBVA Compass may add to, change or delete any security procedure.

HOST TO HOST SERVICE

Compass Bank, hereinafter "BBVA COMPASS", agrees to render and "THE COMPANY" agrees to use the banking transaction delivery service through a communications channel between computer systems and equipment ("Host to Host Service" or the "

H2H Service”) pursuant to the terms and conditions established in this agreement.

THE COMPANY shall perform all the necessary adjustments to their computer systems to allow for their systems to connect to and communicate with BBVA Compass systems in accordance with the security stands set forth herein.

Both parties agree to: (1) grant access to shared files on each other’s designated servers necessary to provide the H2H Service and (2) send and receive electronic files containing information regarding Treasury Management Services pursuant to the Communication protocols FTPS, SFTP, AS2 or Connect Direct.

Both parties agree that BBVA COMPASS shall freely set the terms, requirements and conditions of THE H2H SERVICE, as well as the operation dates and schedules referred to in this agreement pursuant to the provisions of this Agreement, the Implementation Forms, Request for Treasury Management Services and Implementation Guides.

1. **Service terms and conditions.** It is expressly agreed that the operations carried out under the Host to Host Service shall be governed by the general terms and conditions set forth in the respective agreements of each particular operation in accordance to the following:
 - (a) The information and instructions THE COMPANY conveys or communicates to BBVA COMPASS in files transmitted or sent as well as the issued and transmitted receipts from BBVA COMPASS, will be conclusive evidence of the executed operation, the amount thereof, its nature, as well as its requirements and extent of its instructions.
 - (b) Both parties agree that BBVA COMPASS may amend the terms, conditions and requirements of THE H2H SERVICE, days and hours of operations or transfer provisions at any time.
 - (c) THE COMPANY will designate each account linked to the Treasury Management Services that will be accessed through the H2H Service (the “Accounts”).
2. **Security.** For accessing “THE H2H SERVICE” both parties will carry out the confirmation and authentication processes necessary for the applicable protocol (FTPS, SFTP, AS2 or Connect Direct hereinafter “H2H Communication Protocols”) and Company will comply with all security requirements set forth herein.

Company shall designate in writing to BBVA Compass those individuals who will be the contracts for the H2H Service (“Designated Contacts”). Company shall also designate in writing to BBVA Compass an individual who will be the system administrator (the “System Administrator”) for the H2H Service. The System Administrator will be the person who receives the Company’s user identification (“User ID”), user password (“User Password”) and any other information required to utilize the H2H Service. The System Administrator will also be responsible for providing all information to BBVA Compass, including, but not limited to, public keys, necessary to utilize the H2H Service. If Company desires to change or add a Designated Contact or System Administrator, Company shall provide prior written notice to BBVA Compass of such change, signed by a person whose signature appears on the Authorization Certificate for the BBVA Compass Treasury Management Services Agreement. The notice may be telefaxed to BBVA Compass, but it must be followed by a document with an original signature on it. No change of Designated Contacts or System Administrator by Company shall be effective until accepted by BBVA Compass, and BBVA Compass has had a reasonable opportunity to update its records.

Company shall be responsible for initiating, undertaking and supervising all safety and security precautions and programs under its control, dominion or supervision in connection with the H2H Service.

Company shall implement and maintain adequate information security measures to protect against unauthorized access to or use of the H2H Service, including, without limitation: (i) access controls on information systems, including controls to authenticate and permit access only to authorized individuals and controls to prevent employees from providing Access Devices (as defined below) to unauthorized individuals who may seek to obtain this information through fraudulent means; (ii) encryption of electronic Information while in transit over any network (LAN/WAN including MPLS) using well known (non-proprietary) encryption algorithms with a minimum key length of 128 bits; (iii) procedures designed to ensure that information system modifications are consistent with the information security measures; (iv) monitoring systems and procedures to detect actual and attempted attacks on or intrusions into information systems; (v) response programs that specify actions to be taken when Company detects unauthorized access to information systems, including immediate reports to BBVA Compass (vi) training of staff to implement the information security measures; (vii) maintain all systems and applications current with latest release of software and/or security packs, security patches, and security hot fixes; (viii) regular testing of key controls, systems and procedures of the information security measures by independent third parties or staff independent of those that develop or maintain the security measures; (ix) appropriate firewalls and access control lists between all Company and BBVA Compass networks, with only required traffic allowed between networks.

Company will be responsible for safekeeping all keys, access codes, combinations, access cards, personal identification numbers, User ID, User Password and any other applicable credentials and similar security codes or identifiers (each an “Access Device”) issued to Company personnel. This obligation will include, but not be limited to, development and implementation of written procedures and processes for safekeeping and security of the Access Devices. Company will make its written safekeeping and security procedures and processes available to BBVA Compass at or prior to the Effective Date of this Agreement and thereafter from time to time, at BBVA Compass’ reasonable request. BBVA Compass will have the right to review and audit Company’s safekeeping and security procedures, processes, and activities. Company will be responsible for any losses or damages BBVA Compass incurs in connection with a lost or stolen Access Device or other breaches of these security requirements.

Company acknowledges that while BBVA Compass will attempt to ensure that all electronic communications between Company and BBVA Compass are encrypted, scrambled or otherwise protected against interception by a person whose access to the H2H Service is unauthorized, Company nonetheless accepts and assumes all risk of loss or dissemination of information attributable to the electronic communications between Company and BBVA Compass through the H2H Service.

If Company or any Designated Contact believes that one or more Access Devices have become known or obtained by unauthorized persons (whether or not employed by Company), the Company shall immediately notify BBVA Compass to enable BBVA Compass to disable the affected Access Device(s). Additionally, BBVA Compass may change or disable any Access Device at any time and for any reason. If BBVA Compass takes such action, BBVA Compass will make every reasonable effort to notify Company promptly. BBVA Compass assumes no responsibility to discover, audit, or report to Company any possible breach of security by Company’s agents or representatives or anyone else for unauthorized disclosure or use of Access Devices. Company acknowledges that the security procedures in this Section constitute commercially reasonable security procedures for the Company.

If Company is unable to access the H2H Service or transact or conduct business through the H2H Communication Protocols, Company shall immediately notify BBVA Compass of such inability but shall transact or conduct business through other means available to Company.

Company's obligations hereunder shall remain in effect for as long as Company continues to utilize or have access to the H2H Service.

3. **Formatting.** All instructions received from Company shall be in the the record format specified by or agreed to by BBVA Compass in the Implementation Forms for the Company. BBVA Compass may reject any instruction which BBVA Compass determines in its sole discretion not to be in compliance with its then applicable media and format requirements.
4. **Software warranty.** Company warrants to BBVA Compass that Company will not transmit any Self-Help Code or any virus, Trojan Horse, worm or other software routines or hardware components designed to permit unauthorized access; to disable, erase or otherwise harm software, hardware or data; or to perform any other such actions to BBVA Compass' systems. As used in this Agreement, "Self-Help Code" means any back door, time bomb, drop dead device or other software routine designed to damage or disable a computer program or hardware automatically with the passage of time or under the positive control of a person other than a licensee of the program.
5. **Conditions for service provision.** The parties agree that BBVA COMPASS will provide the H2H Service in accordance with the terms of this Agreement whenever they are requested. Notwithstanding the foregoing, BBVA COMPASS is not bound to provide THE H2H SERVICE in the following cases:
 - ±When the information provided is insufficient, inaccurate, misleading, incomplete, it fails to meet any security or authentication protocol;
 - (a) When any of THE COMPANY IP addresses provided to BBVA COMPASS have changed without previous notice;
 - (b) When the ACCOUNTS are not registered in THE H2H SERVICE or are canceled or blocked for any reason;
 - (c) When charges cannot be made because there are not sufficient available funds in THE ACCOUNTS, or when THE ACCOUNTS have a zero or negative balance;
 - (d) Due to unforeseeable circumstances or force majeure, or any cause beyond the control of "BBVA COMPASS";
 - (e) When the Treasury Management Service being accessed through the H2H Service is no longer available or the Account is not linked to the Treasury Managemet Service that is being accessed; or
 - (f) When BBVA Compass declines to provide the H2H Service to prevent loss or potential loss to itself or to the Company.
6. **Ownership of process.** BBVA Compass claims and reserves all rights and benefits afforded under applicable law, including, but not limited to, federal copyright law in all software programs and user materials that constitute the H2H Service, and in all system documentation related to the Software, as unpublished works.

Company acknowledges that, in the event of Company's breach of any of the foregoing provisions, BBVA Compass will not have an adequate remedy in money or damages. BBVA Compass shall therefore be entitled to obtain an injunction against the breach from any court of competent jurisdiction immediately upon request. BBVA Compass' right to obtain injunctive relief shall not limit its right to seek further remedies.

IMAGE CASH LETTER SERVICES

Upon Company's submission of a request for Compass Bank's (hereinafter "BBVA Compass") Image Cash Letter services (hereinafter "ICL Service" or "ICL Services") and the approval of the Company for this service Company agrees:

1. **General.** The terms and provisions of this Compass Image Cash Letter Service agreement (hereinafter the "Agreement") provide for the collection of check transaction data, including, but not limited to, check images, between organizations and systems for the purposes of clearing the check payments electronically without the physical presentation of the check (the "Transactions"). BBVA Compass may from time to time agree to accept Transactions from Company, or its actual or apparent agent in the event that Company utilizes the lockbox services of a third party for the collection and processing for deposit checks and other items, and in such case the Transactions shall be governed by the terms and conditions set forth herein or incorporated herein by reference.
2. **System Description.** BBVA Compass' Image Cash Letter service is a delivery mechanism used to transport check transaction data, including check images, between organizations and systems for the purposes of clearing the check payments electronically. To create an "Image Cash Letter", Company captures the check transaction data including an image of the front (including the MICR line) and back of the original check for transmission to BBVA(hereinafter "Image Cash Letter").
3. **Authorized Transactions.** BBVA Compass shall be conclusively entitled to deem the Transactions to be authorized by, and binding upon, Company: (i) if the Transactions and the electronic transmission of a file are made by Company or its actual or apparent agent, or (ii) if BBVA Compass reasonably believes the Transactions and the electronic transmission of a file were sent by an authorized representative of Company, or (iii) in the event Company utilizes the services of a third party for lockbox or other similar services to facilitate the processing of Transactions, provided that the Transactions and the electronic transmission of a file are in the name of Company and BBVA Compass reasonably believes that the Transactions and transmission of a file by such third party are sent on behalf of Company.
4. **Representations and Warranties of Company.** As to the Transactions transmitted to BBVA Compass, Company represents and warrants to BBVA Compass that: (i) the Transactions and authorization, preparation and presentment of the Transactions comply with the terms and conditions set forth in this Agreement; (ii) the Image Cash Letter of the checks transmitted to BBVA Compass is a true and correct image of the original paper check and has not been altered in any manner by Company or any third party acting on behalf of Company, (iii) Company, or a third party acting on behalf of Company, has reviewed and confirmed that the image captured is identical in all respects to the original paper check and that the amount and the Routing Transit Number of the check captured are accurate, (iv) the original paper check has not previously been deposited for collection with BBVA Compass or any other financial institution, (v) Company represents that it will retain the original check or, in the event Company utilizes the lockbox services of a third party or other similar services, that the third party will retain the original check for at least five (5) days and for such additional period as may be required in the event of a disputed electronic image or substitute check, (vi) Company agrees that in the event that a maker of a check asserts that the Transaction is unauthorized, the processing of the original item may be subject to additional terms of dishonorment, (vii) Company has no knowledge or notice of information to indicate that the Transaction is fraudulent or not authorized by the maker of the check, (viii) Company or its actual or apparent agent or any third party acting on Company's behalf will not cause or allow the original of any truncated check to be deposited with BBVA Compass or any other financial institution, or otherwise presented for payment; (x) Company agrees to and will follow the procedures (hereinafter "Procedures") for transmitting Image Cash Letter set forth in the separately distributed Image Cash Letter User Guide as the same may be updated from time to time at the sole discretion of BBVA Compass, (xi) Company will give BBVA Compass full

and prompt cooperation and assistance in the investigation and/or the defense of any claim, complaint, issue and/or liability arising out of the services provided under this Agreement, (xii) only checks made payable to Company will be presented via the ICL Service, (xiii) Company will secure all checks deposited through the ICL Service in such a manner that they are accessible only to those employees, agents and authorized representatives that have a need to access the checks in the performance of their duties for the Company until the same are destroyed, returned to the maker, delivered to BBVA Compass or surrendered to law enforcement authorities, (Company agrees that, at a minimum, the checks will be kept in a locked compartment, secure filing cabinet, safebox, etc...); (xiv) Company will restrict access to the ICL Service software and hardware only to those employees, agents and authorized representatives that have a need to access the same in the performance of their duties for the Company. The ability to access the ICL Service will be treated as confidential information and protected at least to the extent that the Company would protect its own trade secrets, secure processes, proprietary information, customer list or other confidential information; and (xiv) Company will comply with any applicable rules instituted by ECCHO (Electronic Check Clearing House Organization).

5. **Image & MICR Quality.** Each Image Cash Letter transmitted by Company to BBVA Compass shall contain images of the front and the back of the scanned checks and remotely deposited by Company. Each image of each check shall be of such quality that the following information can clearly be read and understood by sight review by BBVA Compass of such image:

- (a) the amount of the check;
- (b) the payee of the check;
- (c) the signature of the drawer of the check;
- (d) the date of the check;
- (e) the check number;
- (f) all other information placed on the check prior to the time an image of the check is captured, such as any required identification written on the front of the check and any endorsements applied to the back of the check.

Each image shall also meet all standards for image quality established by the American National Standards Institute ("ANSI"), the Board of Governors of the Federal Reserve or any other regulatory agency, clearing house or association. Company shall also capture and transmit to BBVA Compass the full-field MICR encoding on each check including spaces and dashes.

6. **Receipt of File.** Company shall be solely responsible for transporting, transmitting, or delivering Image Cash Letters to BBVA Compass by the times and on the dates specified by BBVA Compass. BBVA Compass may reject any Image Cash Letter determined by BBVA Compass, in its sole discretion, to have been submitted after or before the time required by any applicable schedule or deadline. Company agrees that Company shall be solely liable for, and BBVA Compass shall not have any liability whatsoever to Company for, any Image Cash Letter or other information contained therein that are not received by BBVA Compass or for any Image Cash Letter or other information contained therein that are intercepted or altered by an unauthorized third party. Company agrees that BBVA Compass has no obligation to accept an Image Cash Letter and, therefore, may reject any Image Cash Letter or other information contained therein submitted by Company. BBVA Compass has no obligation to notify Company of the rejection of an Image Cash Letter or other information contained therein. BBVA Compass shall have no liability to Company for the rejection of an Image Cash Letter or other information

contained therein or for the failure to notify Company of such rejection. Upon receipt of a Image Cash Letter submitted by Company, BBVA Compass may examine such Image Cash Letter and other information contained therein to ensure that Company has complied with this Agreement and followed the Procedures. If BBVA Compass determines that Company has not complied with this Agreement or followed the Procedures or if errors exist in the Image Cash Letter or other information contained therein], BBVA Compass, in its sole discretion, may reject the Image Cash Letter. BBVA Compass also reserves the right to charge Company for rejected images at the rates disclosed in the fee schedules or otherwise communicated to Company from time to time as provided for in this agreement. BBVA Compass may, at its option, also perform a risk management analysis of one or more Image Cash Letters submitted by Company to detect potentially fraudulent checks, and, in its sole discretion, BBVA Compass may reject any such Image Cash Letter or other information contained therein. If the Image Cash Letter is balanced and the and other information contained therein meet the requirements of Section 5 of this Agreement, then BBVA Compass may accept Image Cash Letter for deposit to Company's Account. Upon acceptance of the Image Cash Letter, BBVA Compass shall electronically notify Company of receipt and acceptance of the Image Cash Letter for deposit via email address provided to BBVA Compass. (hereinafter the "Acknowledgment Email"). The Acknowledgment Email confirms the Image cash Letter has been received and confirms information contained in the Image cash Letter such as check volumes and total deposit amount. Information and data reported in the Acknowledgment Email: (a) may be received prior to final posting and confirmation and is subject to correction and (b) is for informational purposes only and may not be relied upon. Company agrees that BBVA Compass shall have no liability for the content of payment-related information. Notwithstanding the fact that BBVA Compass has accepted a Image Cash Letter for deposit, any credit made to Company's Account shall be provisional, and Company shall remain liable to BBVA Compass for any errors, inaccuracies, breach of warranties and any other loss sustained by, or claim made against, BBVA Compass.

7. **Deposit Processing.** All deposits submitted prior to the cutoff time will be reconciled by the end of the day, except when a deposit requirement described in Section 5 above is unmet, or if BBVA Compass experiences interruptions in its systems operations or there are "quality issues", or if BBVA Compass declines one or more Transactions. If any such situation shall have occurred, BBVA Compass will communicate such action to the Company and provide information to remedy such situation if a remedy is possible and practical (in BBVA Compass' sole discretion). Company shall provide BBVA Compass with the names and telephone numbers of Company personnel responsible for resolution of pre-encoded items rejections and other processing matters. Company will notify BBVA Compass of any changes to such list. Company bears all responsibility and liability for any errors in encoding and for the overall quality of encoding of checks and other items. All items shall be endorsed as "Bank of First Deposit" in accordance with Regulation CC guidelines established by the Federal Reserve Bank. Information and funds available for withdrawal pertaining to the previous evening's deposit shall be available according to the funds availability schedule applicable to Company's account(s). An Acknowledgment Email will also provide information, including volumes and total deposit amount and will be available to Company upon successful receipt of your Image Cash Letter.

Electronic images of items from the previous evening's deposit received prior to the cutoff time will be available to Company pursuant to the guidelines in the User Guide via "Internet" retrieval from BBVA Compass images archive. Such electronic images may be obtained at 7 AM for the previous evening's deposit. There will be a 24-hour turnaround time by BBVA Compass to Company for: (i) encoding errors (conditional credit) and (ii) items posted twice. There will be a 48-hour

- turnaround time by BBVA Compass for: (i) disputed items and (ii) interest adjustments.
8. **Adjustments.** Company shall make all requests for adjustments of any kind to BBVA Compass' Business Relationship Services Team at 1-800-607-4444, option 1 for AL/FL; 1-800-570-2791 for South TX; 1-866-876-4922 for North TX & 1-800-236-2059 for AZ/NM/CO/CA/EI Paso. The requests may be made via telephone, fax or e-mail. Each such request must be for an adjustment amount greater than Fifty Dollars (\$50.00). Company shall provide members of the Business Relationship Services Team with all necessary documentation requested by BBVA Compass to enable it to research and complete the requested adjustments. All debit and credit advices, including the adjustment and accompanying information, will be delivered to Company via first class USPS mail. Requests for adjustment received by BBVA Compass from Company shall be input by BBVA Compass into its adjustments system no later than the following day. BBVA Compass will undertake and exercise reasonable efforts for a period of one hundred twenty (120) days to follow up with other banking institutions concerning each deposit item for which restitution has been requested. BBVA Compass will check the status of pending requests every 15 days during this period. After such period, the item will either be charged off or be charged back to Company, as shall be warranted under the circumstances in BBVA Compass' sole discretion. Notwithstanding the previous sentences of this paragraph, in those instances when such 120 day period shall have expired without resolution, Company may nonetheless request that BBVA Compass undertake continued efforts (subject to the responsiveness of all other parties involved in the transaction in question, e.g., the Federal Reserve Bank and its operating rules) for a period not to exceed three hundred sixty-five (365) days from the date of deposit of the item for which restitution has been requested, and report its findings to Company.
9. **Inquiries and resolution/escalation of problems.** For all issues related to daily requests for information/resolution, Company shall communicate with members of BBVA Compass Business Relationship Services Team at 1-800-607-4444, option 1 for AL/FL; 1-800-570-2791 for South TX; 1-866-876-4922 for North TX & 1-800-236-2059 for AZ/NM/CO/CA/EI Paso.
10. **Provisional Settlement; Returns.** Company acknowledges that Transactions may be returned by the receiving institution for insufficient funds or other reasons. In addition, the Uniform Commercial Code and other applicable law may permit the Transactions to be returned for reason of alleged lack of authorization. Any credit or consideration given by BBVA Compass to Company with respect to any Transactions shall be deemed provisional, and BBVA Compass shall be entitled to revoke same without prior notice in the event one or more Transactions are rejected or returned to BBVA Compass. In the event one or more Transactions are returned for reason of alleged lack of authorization, Company may (i) promptly submit to BBVA Compass such proof of authorization and request that BBVA Compass forward such proof to the receiving institution for its consideration, or (ii) present the original paper check for collection in lieu of the electronic image. Company acknowledges and agrees that BBVA Compass may make adjustments to any credit or consideration given for a Transaction or Transactions to remedy any transmission and/or encoding errors.
11. **ICL Services by Third-Party Processor.** Upon Company's submission of a request for ICL Services on which Company has designated a third party to provide ICL processing services related to the Accounts (the "Processor") and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees as follows:
- (a) Background
- (i) Company separately has authorized the Processor to initiate Image Cash Letters electronically to each Company Account designated on the Services Instructions for ICL Services (each, a "Designated Account" for the purposes of the ICL Service).
- (ii) At Company's request, BBVA Compass and the Processor have entered into the Image Cash Letter Service Agreement for Third-Party Processors (the "Third-Party Agreement"). Among other points, the Third-Party Agreement establishes the security procedures applicable to all Image Cash Letters to a Designated Account initiated electronically by the Processor, including without limitation the security codes and other devices that the Processor or its "Designated Users" must use (collectively, the Processor Codes).
- (b) Transaction Authorization. Company hereby authorizes BBVA Compass:
- (i) To provide the Processor with all software, Processor Codes and instructional materials necessary for the Processor to initiate Image Cash Letters electronically to each Company Account electronically (the "ICL Instructions").
- (ii) To process Image Cash Letters to a Designated Account that is initiated electronically using the Processor Codes in accordance with the Third-Party Agreement and the ICL Instructions (each, an "Authorized Transaction").
- (c) Reliance on Authorized Transaction. Each Authorized Transaction shall be deemed a transaction initiated by Company, and BBVA Compass may rely upon each Authorized Transaction as a transaction properly authorized by Company. BBVA Compass is authorized to process each Authorized Transaction until: (i) BBVA Compass receives written notice from Company that Company has revoked its authorization for the Processor to initiate Image Cash Letters to any or all Designated Accounts; and (ii) BBVA Compass has had a reasonable opportunity to act upon Company's notice.
- (d) Limitation of Liability; Indemnity. Notwithstanding any other provision of this Agreement or any other agreement between BBVA Compass and Company, neither BBVA Compass nor any of its suppliers, licensors, service providers or vendors (each, including BBVA Compass, a "Provider") shall have any liability for any losses, damages, claims, judgments, costs or expenses (collectively, "Damages") incurred by Company that arise from or relate to Company's authorization of Processor to initiate Image Cash Letters electronically to any Designated Account or the Processor's use of any electronic system or network for the initiation of these Image Cash Letters or the Processors misuse or misappropriation of information, technology or accounts. Notwithstanding any other provision of this Agreement, neither BBVA Compass nor any other Provider shall have any responsibility for Damages arising, directly or indirectly, from any error, delay or failure to perform any obligation hereunder which is caused by fire, natural disaster, pandemic, strike, civil unrest, any inoperable communications facilities or any other circumstance beyond the reasonable control of Compass or Provider. In no event shall Compass or Provider be liable to Company or any third party for any indirect, consequential, special, punitive or exemplary damages. Company shall indemnify, protect and hold Compass and Provider and their respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person") harmless from and against any and all Damages incurred by a Provider that arise from or relate to Company's

- authorization of Processor to initiate Image Cash Letters electronically to any Designated Account or the Processor's use of any electronic system or network for the initiation of these ICL Image Cash Letters. Company will, at its own expense, defend any action or proceeding brought against any Indemnified Person in connection with such Damages. In addition to the foregoing, all disclaimers and limitations on the liability of BBVA Compass and the obligation of Company to indemnify BBVA Compass with respect to the Processor's initiation of Image Cash Letters to any Designated Account, whether under this Agreement or any other agreement between BBVA Compass and Company, shall apply equally to all other Providers.
- (e) **Representations, Warranties and Covenants.** Company represents and warrants that each Image Cash Letter electronically submitted to BBVA Compass from the Processor will fully satisfy and comply with all applicable requirements of all applicable laws and regulations. Company expressly warrants (i) that neither Company nor the Processor is a "Consumer" as defined in Section 205.2(e) of Regulation E promulgated by the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and (ii) that all Image Cash Letters initiated by the Processor are for commercial purposes, and not for personal or household purposes.
- (f) **Termination.** Notwithstanding any other provision regarding termination set forth in the Third-Party Agreement, this Agreement or in any other agreement between BBVA Compass and Company, BBVA Compass may limit, restrict, suspend or terminate, at any time, effective immediately, Processor's ability to initiate Image Cash Letters. BBVA Compass shall use reasonable efforts to promptly communicate notice of such action to Company and the Processor, and will thereafter provide written confirmation of such action if the initial notice of termination was not communicated in writing. BBVA Compass, at any time, may require Company or the Processor to execute additional documents or agreements in order for the Processor to continue to initiate Image Cash Letters electronically to any Designated Account.
12. **Company Indemnification.** Company agrees to indemnify and hold BBVA Compass, its affiliates, directors, officers, employees, and agents harmless from and against all losses, liabilities, cost, damages and expenses (including reasonable attorneys' fees and cost of litigation) to which BBVA Compass may be subjected or which it may incur in connection with any claims which might arise from or out of Company's use of BBVA Compass's ICL Service or the processing of any check images or IRD's transmitted to Compass by Company or Company's actual or apparent agent. Company shall also hold BBVA Compass, its affiliates, directors, officers, employees, and agents harmless from and against all losses, liabilities, cost, damages and expenses (including reasonable attorneys' fees and cost of litigation) to which Company may be subjected or which it may incur in connection with any claims which might arise from or out of Company's use of or the failure of any software or hardware provided, required or suggested by BBVA Compass. The Company's indemnity obligations under this section shall survive termination of this Agreement.
13. **Compass's Right of Refusal.** BBVA Compass may, in its sole discretion, refuse to process any electronic image at any time without prior notification to Company.
14. **Limitation of Remedies.** In the event that BBVA Compass undertakes to correct any error caused by the Equipment or a third party vendor or any other third party acting on behalf of Company, BBVA Compass shall not have any liability with respect thereto. **It is Company's responsibility to verify that all Transactions were delivered to BBVA Compass and that the Transactions received by BBVA Compass were complete and accurate. A CONFIRMATION OF DELIVERY BY BBVA COMPASS DOES NOT RELIEVE COMPANY OF THIS OBLIGATION. Company's only remedy for an error by BBVA Compass employees, agents or representatives is for BBVA Compass to correct the error.**
15. **Audit Rights.** Upon reasonable notice, BBVA Compass may audit, at its own expense, Company's hardware, Software, security, procedures, processes and any and all relevant business records directly relating to this Agreement. If any errors or discrepancies for the audited period are found, BBVA Compass may, in its sole discretion and option, immediately terminate this Agreement.
16. **Security.** Company is advised that certain of the Services may be provided by way of the Internet. Use of any such method of communication requires that Company receive and transmit information via connection to remote computers over telephone lines or other Internet connections. Company acknowledges that data, including e-mail, electronic communications, and confidential financial data, may be accessed by unauthorized third parties when communicated to BBVA Compass using the Internet or other network or dial-up communications facilities, telephone or any other electronic means. With respect to BBVA Compass Internet System access, Company agrees to use software produced by third parties, including, but not limited to, "browser" software that supports a data security protocol compatible with the protocol used by BBVA Compass. Until notified otherwise by BBVA Compass, Company agrees to use software that supports the Secure Sockets Layer (SSL) protocol or other protocols accepted by Compass and to follow Compass' log-on procedures that support such protocols. Company acknowledges that BBVA Compass is not responsible for (i) notifying Company of any upgrades, fixes or enhancements to any such software; or (ii) any compromise of data transmitted across computer networks or telecommunications facilities, including, but not limited to, the Internet. With the exception of applications commonly known as web browser software, or other applications or access devices formally approved by BBVA Compass in writing, Company agrees not to (i) use any software, program, application or any other device to access or log on to BBVA Compass' computer systems, web site or proprietary software; or (ii) automate the process of obtaining, downloading, re-engineering, transferring or transmitting any information to or from Compass' computer systems, web site or proprietary software. In the event of any system failure, BBVA Compass may reserve the right to require additional documentation, including authorizations, from Company before accepting any order or re-instituting Company's access to the BBVA Compass Internet System. Company assumes full responsibility for its selection of, access to, and use of products purchased from BBVA Compass as indicated on the Implementation Form. Company shall be responsible for the confidentiality, maintenance, and use both of its financial information on the BBVA Compass Internet System, and of its access number(s), password(s), log-in ID(s), and account number(s). If Company requires more than one authorized signer's signature or authorization to conduct certain transactions related to Company's account(s) or the Services, this requirement will be deemed solely for Company's own purposes. BBVA Compass will not be liable to Company as long as at least one authorized signer's signature appears on the Company's checks, drafts, instructions, or orders, or if BBVA Compass' records indicate that a transaction, payment or other product use was made by or on behalf of one authorized signer by telephone, BBVA Compass Internet System, or other method. This includes situations in which Company has provided its access number(s), password(s), log-in ID(s) and/or account number(s) to someone else to use. Company agrees not to hold BBVA Compass liable for following Company's written orders or instructions. Company agrees not to hold BBVA Compass liable for any damages of any kind resulting from Company's disclosure of its access number(s), password(s), log-in ID(s), or account numbers to any person identified or not identified on the Implementation Form.

Company will be responsible for all orders and instructions entered through and under Company's access number(s), password(s), log-in ID(s), and/or account number(s), and any orders or instructions so received by BBVA Compass will be deemed to have been received from Company. All orders and instructions shall be deemed to be made at the time received by BBVA Compass and in the form received. Company agrees to immediately notify (in the manner prescribed by BBVA Compass from time to time) BBVA Compass if Company learns of:

- any loss or theft of Company's access number(s), password(s), log-in ID(s) and/or account number(s); or
- any unauthorized use of any of Company's access number(s), password(s), log-in ID(s), and/or account number(s), or of the electronic Services or any of Company's information; or
- any receipt by Company of confirmation of an order that Company did not place; or any similarly inaccurate or conflicting report or information.

Company agrees to use only the software provided or instructed by BBVA Compass with the ICL service and to install all updates, patches and/or any other amendments or modifications to the same when directed by BBVA Compass to do so.

Company will restrict access to the hardware and software involved in providing the ICL service to only those employees that have a need to access the same in the performance of their duties for the companies and employ reasonable security measures to prohibit unauthorized access.

Company will restrict access to the non public information contained on the checks transmitted using the ICL service to only those employees that have a need to access the same in the performance of their duties for the companies and employ reasonable security measures to prohibit unauthorized access.

17. **Training.** Company agrees to require its employees to complete the training courses and materials supplied by BBVA Compass prior to implementing the ICL service and to complete all supplemental training that may be required by BBVA Compass from time to time.

INTEGRATED PAYABLES

Upon Company's submission of a request for the Integrated Payables Service and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Definitions.** In addition to the capitalized terms defined elsewhere in this Agreement the terms below shall have the following meanings:

"Agreed Format" means the format of the file that Company sends to BBVA Compass which has been setup and tested by BBVA Compass before the first file is sent for payment processing.

"Cashier's Check" means a check issued by BBVA Compass, on its own accounts, at the Company's request and payable to person or entity designated by the Company. "Check" means those checks drawn on Company's demand deposit account at BBVA Compass.

"Check Setup" means the necessary information to complete the design of the checks to be printed, including, but not limited to, company logos, digitized signatures, addresses and other information to be printed on the check.

"Corporate Administrator" means an authorized individual at Company who is responsible for designating the access of each Designated User within the Company to the system. This person will be responsible for adding, deleting and maintaining the Designated Users within the Company.

"Designated User" refers to employees at Company who are given access to the Integrated Payables application by Company's Corporate Administrator.

"Electronic Payment" refers to a payment that is fulfilled via an Automated Clearing House (ACH) debit to Company's account at BBVA Compass, who is considered the Originating Depository Financial Institution ("ODFI").

"Integrated Payables" is a payments outsourcing service that provides both check print & mail and Electronic Payment processing options, enabling Company to make the transition from printing and mailing checks with remittances to electronic payments with electronic remittance delivery, without requiring changes to Company's existing Accounts Payable process.

"Payee" refers to the recipient of each payment in the payment file. A Payee must be a non-consumer (i.e. business) to access the Vendor Portal.

"Payee Number" is a unique number assigned by Company to identify the Payee.

"Payment File" refers to a file containing payment instructions sent by Company to BBVA Compass for processing.

"Payment Number" is assigned by Company to each payment within their payment file. The number is used to facilitate payment reconciliation.

"Payment Record" means a detailed instruction to execute a payment and will include the amount, Payee name, Payment Number and other applicable information.

"Transmission Method" refers to the secure file transmission protocol, such as FTPS/SSL or SFTP/SSH, that may include the use of file encryption, public/private keys, passwords and/or digital authentication certificates, used by Company to send Payment Files to BBVA Compass. The specific transmission protocol and communication is established between Company and BBVA Compass during service implementation and must be set up before the first Payment File is transmitted to BBVA Compass.

"Funds Transfers" is used to collectively refer to either or both "Domestic Wire Transfers" and "International Wire Transfers". "Domestic Wire Transfer" means an outgoing funds transfer in U.S. Dollars (USD) sent either: to the beneficiary's account at a bank located in the United States, or to a bank located in the United States, for credit to the beneficiary's account at a bank located outside the United States. "International Wire Transfer" means an outgoing funds transfer sent either: in USD to the beneficiary's account at a bank located outside the United States, or in foreign currency.

"Vendor Portal" refers to a self-enrollment website where Payees can complete online enrollment to create their user profile and provide the necessary information to receive electronic payments. Enrolled vendors receive payment notification via secure email and can access the Vendor Portal to view payments electronically. They also have the ability to download payment and remittance details in an electronic data file.

"Virtual Token" refers to a unique one-time password generated for Designated Users each time they access the Integrated Payables system. It is used to prove one's identity electronically as a form of authentication. A text containing a password is sent to each Designated User's mobile telephone number or email address for every login to Integrated Payables. Designated

Users need to enter the 6-digit one-time use password that they receive to complete the login process.

2. **Payment Processing.** Company agrees to provide Payment File to BBVA Compass in the Agreed Format using the Integrated Payables website or Transmission Method. Company is responsible for ensuring that any information or data which it introduces into the Integrated Payables system is accurate, complete and fully authorized by Company. BBVA Compass will send an automated email notification to Company upon receipt of the Payment File. BBVA Compass is authorized and directed by Company to analyze the Payment File to identify (1) transactions designated to be paid with Company's BBVA Compass Purchasing Card account and/or (2) transactions designated to be paid by Funds Transfers from a BBVA Compass designated account, and/or (3) any and all of the remaining Company's Payees that have enrolled with Integrated Payables to receive Electronic Payments. For any of these identified transactions or payees, each payment will be executed either as a Purchasing Card transaction, a Funds Transfer or as an Electronic Payment, as specified in the Service Instructions.

Integrated Payables will create a file containing the National Automated Clearing House Associations (NACHA) compliant Automated Clearing House (ACH) records for Electronic Payments. The system will automatically transmit the NACHA-formatted ACH file directly to BBVA Compass, who will originate the ACH payments per the instructions in the file. Payment Files received by the applicable cut-off time on a business day settled via ACH will have an effective date of the next business day following the submission of the Payment File to Integrated Payables. Payment Files received after the applicable cut-off time or on a non-business day will have an effective date of the two (2) business days following the submission of the Payment File to Integrated Payables. If Company requires the ACH transactions to settle the day prior to a Federal Reserve holiday, Company will need to add an additional day to the file transmission schedule. This will ensure that the Receiver of the funds has use of them during the holiday. On the settlement date, Company's account will be debited for the total dollar amount of the ACH file. If an ACH entry did not post to a Payee's account ("ACH Return"), BBVA Compass or its Providers will notify Company so that Company can resubmit the payment, which will be processed as a check until BBVA Compass or its Providers resolved the reason for the ACH Return. If Company realizes that there is an erroneous entry in the Payment File submitted, Company should contact BBVA Compass immediately as there are multiple processing windows throughout the day and a very narrow timeframe by which BBVA Compass can delete a file prior to processing. If BBVA Compass is unable to delete Company's file, it is because it has already been processed. The BBVA Compass ACH department will, upon Company's written request initiate a reversing entry or file on your company's behalf. Each reversing entry or file must be initiated in such time as to be transmitted or made available to the Receiving Depository Financial Institution (RDFI) within five (5) banking days after the Settlement Date of the erroneous entry or file. If necessary, a reversing entry or file to correct an entry or file containing erroneous data must be accompanied by a correcting entry or file that contains the correct information. Company must also notify the receiver(s) of the reversing entry(-ies) and the reason for the reversing entry(-ies) no later than the Settlement Date of the reversing entry.

Integrated Payables will create a file containing Funds Transfers in the format necessary for BBVA Compass to process such funds transfers. The system will automatically transmit the Domestic and/or International Wire Transfer payments file to BBVA Compass, who will initiate the funds transfers per the instructions in the file. Payment files containing Domestic Wire Transfer orders received by the applicable cut-off time on a business day will have an effective date of the same business day. Payment files containing Domestic Wire Transfer orders received after the applicable cut-off time on a

business day or on a non-business day will have an effective date of the next business day. Payment files containing International Wire Transfer orders received by the applicable cut-off time on a business day will have an effective date of the same business day. Payment files containing International Wire Transfer orders received after the applicable cut-off time on a business day will have an effective date of the next business day. BBVA Compass may offer to Company automated confirmations of all Company initiated wire transfer transactions and payment orders. These confirmations will be made available to Company the same business day as the execution of the transaction or payment order. BBVA Compass shall have no obligation or duty to cancel or amend Funds Transfers received from Company after BBVA Compass accepts the Payment File.

Integrated Payables provides a print option for Payees that require paper checks. The layout of the check and all remittance documents are determined by Company during service implementation. If Company subscribes to any of BBVA Compass' Positive Pay Services, Integrated Payables shall create Positive Pay check issue files and send the files directly to the Positive Pay system for processing on Company's behalf.

Digital images of authorized signatures will be placed on all checks printed by the Integrated Payables system. If Company requires a manual signature on checks over a set dollar amount, BBVA Compass will implement procedures to have these checks sent back to Company via overnight courier.

All printed checks will be processed for postal cleansing and discounts, with postage billed at the lowest possible rate first class rate, unless otherwise specified by Company. Checks are distributed by the United States Postal Service (USPS), unless otherwise specified, the next business day for all Payment Files delivered to Integrated Payables by the applicable cut-off time. Once a check is printed, Company must complete and fax/email a Special Handling & Check Pull Request Form to prevent a check from being mailed if it has not been mailed already. Integrated Payables processors will make their best efforts to pull the check(s) from the processing stream.

3. **Payroll Service.** If Company elects to use Payroll Service, Company agrees to provide payroll file(s) to BBVA Compass in the Agreed Format using the Integrated Payables website or Transmission Method. Company is responsible for ensuring that any information or data which it introduces into the Integrated Payables system is accurate and complete. Company will agree to provide BBVA Compass the information necessary to develop the Company branded website for Company employees to self-enroll for electronic payments. BBVA Compass will incorporate Company's supplied design elements into an online site that Company's employees can use to self-enroll for electronic payments. BBVA Compass is authorized and directed by Company to analyze the payroll file(s), to identify any and all of Company's employees that have enrolled with Integrated Payables to receive Electronic Payments. For any of these identified employees, each payment will be executed as an Electronic Payment, subject to the terms and conditions of the Integrated Payables Payment Processing and Automated Clearing House Services or Automated Clearing House Prepaid Services, whichever is applicable, listed in other sections of this document.

Company authorizes BBVA Compass to process Company's payroll file(s), and post data for online presentment as well as distribute all printed items via Company's instructions. Estimated postage for the printed items will be billed to Company in advance. Online presentment and print forms will be created to closely resemble payroll stubs. A confirmation of file(s) receipt will be transmitted to Company's designee within one (1) hour of receipt. Upon completion of file processing and availability of data for online presentment, Company's designee will receive written notification. BBVA Compass will maintain

availability of Company processed files for online presentment for a maximum of twelve (12) calendar months.

Company may elect to utilize this service for reporting of IRS W-2, 1099-MISC and 1042-S information. Company authorizes BBVA Compass to process company's file containing W-2, 1099-MISC and 1042-S information and present such information on the Company's Integrated Payables- Payroll website.

Company agrees that setup fee is a one-time charge which will include branding of a web site for Company's employees to view direct deposit advice and remittance online, as well as integration of Company's flat ASCII data file, or other mutually acceptable format, for use with the Integrated Payables system. It will also include design of an electronic form template for printing of payroll stubs and IRS W-2, 1099-MISC, 1042-S forms. Setup fee is per application so that the payroll file and W-2 is one application; 1099-MISC is a second application, and 1042-S is a third application. A 20% cancellation may be levied for orders placed and file(s) not submitted. Custom programming work above and beyond the services listed here may be assessed at a minimum of \$250 USD per programming hour.

Company agrees that Integrated Payables Payroll Services is a funds distribution service only. Company agrees that Company is solely responsible for compliance with all applicable federal, state and local laws, rules and regulations relating to payroll, compensation and employment matters, including, without limitation, as applicable, (i) federal and state wage and hour laws and regulations, (ii) proper withholding and timely remittance of any and all taxes related thereto (e.g., local, state and federal income, payroll, social security, or Medicare taxes), and (iii) delivery of pay stubs and similar payroll information to employees.

4. **ACH Services.** Company acknowledges that all Electronic Payments fulfilled by the Integrated Payables service are subject to the terms and conditions of the Automated Clearing House Services or Automated Clearing House Prepaid Services, whichever is applicable, listed in another section of this document.
5. **Purchasing Card Services.** Company acknowledges that all Purchasing Card transactions fulfilled by the Integrated Payables service are subject to the terms and conditions of the BBVA Compass Purchasing Card Agreement separately executed by the Company.
6. **Funds Transfer Services.** Company acknowledges that all Domestic and International Wire Transfer orders fulfilled by the Integrated Payables service are subject to the terms and conditions of the BBVA Compass Funds Transfer Agreement separately executed by the Company.
7. **Payment Record Retention.** Company will have access to all inbound payment data via the secure Integrated Payables archive, whether remaining as paper checks or fulfilled as Electronic Payments for a minimum period of seven years. The most recent twelve months of payment history will be available via online access. All payments will be tagged as either checks or Electronic Payments. Payment numbers are retained, even if the item is fulfilled as an Electronic Payment.
8. **Payment File Specifications.** Payment File format will be mutually agreed to by Company and BBVA Compass. Regardless of file format, the required data elements for each Payment are: (a) Payee Number, (b) Payment Number, (c) date of payment, (d) payment amount, (e) Payee name and (f) payee address. Company may optionally include remittance information, such as invoice numbers, invoice dates and descriptions, invoice amounts, etc. associated with each Payment Record.

Funds Transfers initiated through Integrated Payables are considered non-repetitive wire transfers, therefore Company must provide BBVA Compass with the following information prior to initiating the Funds Transfers: (a) the designated account from which the funds are to be drawn, (b) amount to be transferred, (c) bank to which funds are to be transferred, (d) name of the receiving party and account number to which the funds are to be transferred.

9. **Vendor Enrollment Campaign.** BBVA Compass will design a custom vendor adoption campaign to enroll Company's vendors to receive Electronic Payments. BBVA Compass and its Providers will contact the selected vendors through formal mailings, proactive phone calls, check inserts, emails and other methods as designated by the Company. The campaign will be executed by BBVA Compass and/or its Providers with the approval of the Company, providing reasonable direct support to Payees requiring assistance in completing the online registration steps. Verified vendor accounts will be activated in the system so that future payments to registered vendors/suppliers of Company will be fulfilled as an Electronic Payments.
10. **Internet Security.** Company shall designate in writing to BBVA Compass the Corporate Administrator to serve as its system and security administrator for Integrated Payables. The Corporate Administrator shall be responsible for (a) granting and revoking authority to Designated Users to access Integrated Payables and use the online services, (b) defining the scope of authority for each Designated User, and (c) defining those accounts maintained by Company at BBVA Compass for which each Designated User shall have access and responsibility. After Company has designated to BBVA Compass the identity of the Corporate Administrator, BBVA Compass shall provide the Corporate Administrator with the World Wide Web address of Integrated Payables on which the online services shall be accessible. The Corporate Administrator shall set-up each Designated User on Integrated Payables.

Each Designated User will be required to use Virtual Tokens in addition to a username and password with the Integrated Payables system. The Virtual Tokens must be used to gain access to Integrated Payables, and BBVA Compass will not allow access to Company Accounts through Integrated Payables without the Virtual Tokens.

Company agrees that use of the Virtual Tokens will authenticate the identity of the Corporate Administrator and each Designated User. Company also agrees to review promptly each statement sent by BBVA Compass for any Company Account that is accessible through Integrated Payables in order to detect any unauthorized transactions. To the fullest extent permitted by applicable law, Company is responsible for all transactions on Company Accounts initiated using the Virtual Tokens. Company is responsible for maintaining the confidentiality of all Virtual Tokens, and for implementing the necessary internal controls, balancing and reconciliation functions, and audit procedures to prevent unauthorized use of Integrated Payables. Company agrees that the use of the Virtual Tokens constitutes a commercially reasonable security procedure for Company. Company also agrees to be bound by all requests, communications, or other instructions to BBVA Compass that are initiated using Integrated Payables and in compliance with this security procedure, regardless of whether or not Company actually authorized the instruction. If any instruction initiated through Integrated Payables and accepted by BBVA Compass in compliance with this security procedure contains any error, to the full extent allowed by law, Company shall be liable for, and shall indemnify BBVA Compass against any claims, losses and expenses BBVA Compass may incur that arises from or relates to the erroneous instructions. BBVA Compass' records demonstrating compliance with this security procedure will be deemed conclusive proof that the payment order received by

BBVA Compass was authorized and that Company is bound by those instructions.

11. **BBVA Compass Representations and Warranties.** Subject to all terms of this Agreement, BBVA Compass warrants that it has the right to grant the sublicense to the Software and Documentation. In the event the Software or Documentation, or any portion thereof, is held to constitute an infringement of any third party's rights, and use thereof is enjoined, BBVA Compass shall, at its election: (a) promptly procure the right for Company; or (b) notify Company of its intent to discontinue use of the Software and Documentation.
12. **Limitation of Liability; Indemnity.** Notwithstanding any other provision of this Agreement or any other agreement between BBVA Compass and Company, neither BBVA Compass nor any of its suppliers, licensors, service providers or vendors (collectively, including BBVA Compass, the "Providers") shall have any liability for any liabilities, losses, damages, claims, judgments, costs or expenses (collectively, "Damages") that Company asserts or sustains as a result of Company's use of Integrated Payables Services.
13. **Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, INTEGRATED PAYABLES, THE SOFTWARE AND THE DOCUMENTATION ARE PROVIDED FOR COMPANY'S USE DURING THE TERM HEREOF "AS IS" AND "WHERE IS", AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BBVA COMPASS AND THE OTHER PROVIDERS MAKE NO REPRESENTATIONS OR WARRANTIES AND DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO INTEGRATED PAYABLES, THE SOFTWARE OR THE DOCUMENTATION, OR USE OF INTEGRATED PAYABLES BY COMPANY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY AND NON-INFRINGEMENT. BBVA COMPASS DOES NOT WARRANT THAT THE OPERATION OF INTEGRATED PAYABLES OR SOFTWARE WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM ANY OTHER PROGRAM LIMITATIONS. BBVA COMPASS DOES NOT MAKE ANY REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF INTEGRATED PAYABLES, THE SOFTWARE OR THE DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. COMPANY ACKNOWLEDGES THAT IT MUST PROVIDE ALL EQUIPMENT AND PROVIDE AND MAINTAIN SERVICE THROUGH AN INTERNET SERVICE PROVIDER ("ISP") SUITABLE TO ACCESS INTEGRATED PAYABLES AND IS SOLELY RESPONSIBLE FOR ALL FEES, COSTS AND CHARGES ASSOCIATED WITH AND MAINTENANCE OF SUCH EQUIPMENT OR SERVICE. COMPANY ACKNOWLEDGES THAT ITS ISP MAY HAVE UNINTENDED EFFECTS ON COMPANY'S USE OF INTEGRATED PAYABLES AND THE ABILITY TO CONDUCT OR TRANSACT ONLINE SERVICES (INCLUDING, WITHOUT LIMITATION, COMPANY'S ABILITY TO ACCESS INTEGRATED PAYABLES), AND THAT BBVA COMPASS SHALL HAVE NO RESPONSIBILITY FOR SUCH EFFECTS. COMPANY ACKNOWLEDGES THAT THE SOFTWARE MUST INTERFACE WITH BBVA COMPASS' COMPUTERS, AND ASSUMES THE RISK THAT BBVA COMPASS' COMPUTERS MIGHT NOT BE OPERATIONAL OR COMPATIBLE AT ALL TIMES. COMPANY FURTHER ACKNOWLEDGES THAT BBVA COMPASS SHALL HAVE NO LIABILITY OR RESPONSIBILITY FOR THE SATISFACTORY PERFORMANCE OF COMPANY'S HARDWARE AND SOFTWARE USED TO INITIATE OR RECEIVE COMMUNICATIONS OVER THE INTERNET. COMPANY ALSO ACKNOWLEDGES THAT ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF INTEGRATED PAYABLES IS DONE AT COMPANY'S OWN DISCRETION AND RISK AND THAT

COMPANY WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO COMPANY'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

14. **Proprietary Rights.** Company acknowledges that BBVA Compass or the other Providers shall retain all rights, title and interests in and to Integrated Payables, the Software (including, without limitation, the source code, listings, magnetic media and any support materials related thereto) and Documentation, as well as the ideas and concepts incorporated in those items, and all modifications, improvements and enhancements thereof and additions thereto, including ownership of all trade secrets, copyrights and other associated proprietary and intellectual property rights pertaining thereto (collectively, the "Intellectual Property Rights"), except as granted hereunder. Company shall not take any action that is inconsistent with the Intellectual Property Rights of BBVA Compass or any Provider, nor shall it take any actions or engage in any conduct that violates the Intellectual Property Rights of BBVA Compass or any other Provider.

The Software and Documentation include trade secrets and other proprietary information of BBVA Compass and its suppliers, licensors, service providers and vendors and are confidential property of such person(s) or legal entity(ies). Company shall treat as confidential and shall not disclose or otherwise make available the Software, the Documentation (collectively, the "Confidential Information"), in any form, to any person other than Company's employees who have a need to know such Confidential Information. Company shall not attempt to nor shall it reverse engineer, disassemble, decompile or otherwise attempt to derive source code from Confidential Information, make the Confidential Information available to any third parties, modify, adapt, translate or create derivative works based upon such Confidential Information, or permit or authorize any third party to do any of the foregoing. Company will instruct its employees who have access to the Confidential Information to keep the same confidential, by using the same care and discretion which Company uses with respect to its own confidential property and trade secrets. Company agrees that it shall not take any action to change or make any modification to Integrated Payables or the Software.

15. **Company's Additional Representations, Warranties and Covenants.** Company represents and warrants that each electronic communication submitted to BBVA Compass by the Company by use of Integrated Payables fully satisfies and complies with all applicable requirements of all applicable laws and regulations. Company expressly warrants (a) that Company is not a "Consumer" as defined in Section 205.2(e) of Regulation E promulgated by the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and (b) that all transactions initiated by Company using Integrated Payables are for commercial purposes, and not for personal or household purposes.
16. **Termination.** Notwithstanding any other provision regarding termination set forth herein or in any other agreement between BBVA Compass and Company, BBVA Compass may terminate Company's access to and its ability to transact online services through Integrated Payables at any time, effective immediately. BBVA Compass shall use reasonable efforts to communicate notice of the termination to Company promptly, and will thereafter provide written confirmation of the Termination if the initial notice of termination was not communicated in writing. BBVA Compass may require Company to execute additional documents or agreements to continue to conduct or transact Online Services through or by use of Integrated Payables at any time.
17. **Cashier's Check Service.** If Company elects to use the Cashier's Check Service of Integrated Payables, Company agrees to provide the Payment File to BBVA Compass in the

Agreed Format using the Integrated Payables website or Transmission Method. Company is responsible for ensuring that any information or data which it introduces into the Integrated Payables system is accurate and complete. The Agreed Format for the Cashier's Check Service may be different than the Agreed Format used for other types of Integrated Payables applications.

Guaranteed Funds. Company agrees that a Cashier's Check must be funded by guaranteed funds. Upon receipt of the Payment File from Company, BBVA Compass will withdraw the amount equal to the amount printed on the Cashier's Check from Company's designated account at BBVA Compass. Company shall at all times during the term hereof maintain with BBVA Compass a deposit account in Company's name (the "Company's Account") with collected balances sufficient to pay or reimburse BBVA Compass for the amount of all Cashier's Checks and all other fees and expense that are chargeable to Company in connection with any Cashier's Check and any Services to be provided to Company by BBVA Compass. Company shall not request any Cashier's Check in an amount greater than the balance of the Company Account (after deduction of all fees and other expenses that are chargeable to Company in connection with such Cashier's Check and all Services to be provided to Company by BBVA Compass). In addition to the terms hereof, the Company Account and all other deposits and other accounts of Company located at BBVA Compass (or an affiliate of BBVA Compass) shall each be subject to the terms and provisions of all deposit agreements and contracts relating to those accounts, as they may be amended and modified from time to time. The Company Account and any additional accounts that Company shall have with BBVA Compass shall be subject to debit for reimbursement for all Cashier's Checks and other fees, expenses, debts, obligations and liabilities of Company to BBVA Compass under this Agreement.

No Stop Payments for 90 Days. Company shall not have any right to request for BBVA Compass to correct, reverse, adjust or stop payment or posting of any Cashier's Check that has been printed or any counterfeit items resembling cashier's checks. BBVA Compass shall have no obligation with respect to any of the foregoing. This provision specifically complies with the terms or provisions of the Uniform Commercial Code.

Processing Deadline. A Cashier's Check through Integrated Payables has a different processing deadline than a regular check printed using Integrated Payables. All printed Cashier's Checks will be processed for postal cleansing and discounts, with postage billed at the lowest possible rate first class rate, unless otherwise specified by Company. Cashier's Checks are distributed by the United States Postal Service (USPS), unless otherwise specified, the next business day for all Payment Files delivered to Integrated Payables by 3:30 p.m. Central Time. Files received after 3:30 p.m. will be printed and distributed the second business day.

LINE OF CREDIT SWEEP SERVICES

Upon Company's submission of a request for Line of Credit Sweep Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Sweep Service.** The Company authorizes BBVA Compass to determine, on a daily basis, based on clearing items for that day, the balance of, and the amount available under, the Company's Revolving Line of Credit provided to Company by BBVA Compass (the "Line of Credit"). The Company further authorizes BBVA Compass, on a daily basis, to (a) the extent available, apply funds in Company's demand deposit account maintained at BBVA Compass and designated by Company as its "Master Account" (which may be a Company Account, as defined in this Agreement) to reduce the outstanding principal

balance of the Line of Credit, or (b) automatically draw funds under the Line of Credit, if available, and deposit those funds into the Master Account if necessary to fund disbursements from the Master Account on that day.

2. **Statements.** All transactions related to Line of Credit Sweep Services will appear on Company's regular monthly checking account statement.

COMPASS LOCKBOX DISTRIBUTED CAPTURE SERVICES

Upon Company's submission of a request for Compass Lockbox Distributed Capture Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **General.** The terms and provisions of this Services Agreement provide for use by the Company of BBVA Compass' lockbox distributed capture service for the collection of checks and associated remittance documents by creating a digitized image of each check and remittance document; and truncate the original check for the electronic transmission of a file to BBVA Compass where the image of the check is processed and/or printed as a substitute paper check, referred to as an Image Replacement Document ("IRD"), collectively referred to herein as "Transactions" and individually referred to herein as a "Transaction." BBVA Compass may from time to time agree to accept Transactions from Company, or its actual or apparent agent in the event that Company utilizes the lockbox services of a third party for the collection and processing for deposit checks and other items, and in such case the Transactions shall be governed by the terms and conditions set forth herein or incorporated herein by reference.
2. **System Description.** By using BBVA Compass' lockbox distributed capture service, Company may process original paper checks by capturing the images, front and back along with the MICR line, of the original check and remittance documents for transmission to BBVA Compass using the transmitted image file. BBVA Compass will process the digital image or print an IRD and process the IRD check as if it were an original paper check. IRD's and digital images of checks (but not remittance documents) are processed for collection through the local Federal Reserve or other clearinghouses, or directly to the paying institution. Remittance documents are processed by capturing the image of the remittance document and electronically transmitting the image to the Vicor system. BBVA Compass' check image deposit service is intended to reduce transportation costs for delivery of deposits to BBVA Compass, expedite the deposit process and reduce the overall collection time for deposits.
3. **Authorized Transactions.** Under any of the following circumstances, BBVA Compass shall be conclusively entitled to deem the Transactions to be authorized by, and binding upon, Company: (i) if the Transactions and the electronic transmission of a file are made by Company or its actual or apparent agent, or (ii) if BBVA Compass reasonably believes the Transactions and the electronic transmission of a file were sent by an authorized representative of Company, or (iii) in the event Company utilizes the services of a third party for lockbox or other similar services to facilitate the processing of Transactions, provided that the Transactions and the electronic transmission of a file are in the name of Company and BBVA Compass reasonably believes that the Transactions and transmission of a file by such third party are sent on behalf of Company.
4. **Representations and Warranties of Company.** As to the Transactions transmitted to BBVA Compass, Company represents and warrants to BBVA Compass that: (i) the Transactions and authorization, preparation and presentment of the Transactions comply with the terms and conditions set forth in this Agreement; (ii) the digital image of the check and

associated remittance documents transmitted to BBVA Compass are true and correct images of the original paper check and remittance documents and have not been altered in any manner by Company or any third party acting on behalf of Company, (iii) Company, or a third party acting on behalf of Company, has reviewed and confirmed that the images captured are identical in all respects to the original paper check and remittance documents and that the amount of the check captured is accurate, (iv) the original paper check has not previously been deposited for collection with BBVA Compass or any other financial institution, (v) Company represents that it will retain the original check and remittance documents, or in the event Company utilizes the lockbox services of a third party or other similar services that the third party will retain the original check for at least five (5) days and for such additional period as may be required in the event of a disputed electronic image or IRD, and that Company or such third party will take all necessary efforts to safeguard any checks until they are destroyed, (vi) Company agrees that in the event that a maker of a check asserts that the Transaction is unauthorized, the processing of the original item may be subject to additional terms of dishonorment, (vii) Company has no knowledge or notice of information to indicate that the Transaction is fraudulent or not authorized by the maker of the check, (viii) Company or its actual or apparent agent or any third party acting on Company's behalf will not cause or allow the original of any truncated check to be deposited with BBVA Compass or any other financial institution, or otherwise presented for payment; (x) Company agrees to and will follow the procedures for transmitting image files set forth in the separately distributed Lockbox Distributed Capture Services User Guide as the same may be updated from time to time at the sole discretion of BBVA Compass, (xi) Company will give BBVA Compass full and prompt cooperation and assistance in the investigation and/or the defense of any claim, complaint, issue and/or liability arising out of the services provided under this Agreement; and (xii) only checks made payable to Company will be presented via the Lockbox Distributed Capture Service.

5. **Provisional Settlement; Returns.** Company acknowledges that Transactions may be returned by the receiving institution for insufficient funds or other reasons. In addition, the Uniform Commercial Code and other applicable law may permit the Transactions to be returned for reason of alleged lack of authorization. Any credit or consideration given by BBVA Compass to Company with respect to any Transactions shall be deemed provisional, and BBVA Compass shall be entitled to revoke same without prior notice in the event one or more Transactions are rejected or returned to BBVA Compass. In the event one or more Transactions are returned for reason of alleged lack of authorization, Company may (i) promptly submit to BBVA Compass such proof of authorization and request that BBVA Compass forward such proof to the receiving institution for its consideration, or (ii) present the original paper check for collection in lieu of the electronic image or the IRD.

Company acknowledges and agrees that BBVA Compass may make adjustments to any credit or consideration given for a Transaction or Transactions to remedy any transmission and/or encoding errors.

6. **Equipment.** To utilize the services provided in this Agreement, the Company must use the equipment designated by BBVA Compass (the "Equipment") from time to time. Company may purchase the Equipment from BBVA Compass or from a third party vendor approved by BBVA Compass in writing.
7. **Software.** BBVA Compass may select software and related user materials ("Software") for utilization of the Lockbox Distributed Capture Service and the processing of Transactions. Company acknowledges that any Software supplied by BBVA Compass for use in Transactions, including, but not limited to, any Software created or modified by BBVA Compass to be specific to Company's environment is the property of BBVA Compass and that BBVA Compass claims and reserves all rights and benefits therein afforded under copyright and other laws. Company's

license of and permission to use the Software is non-exclusive and nontransferable, and it extends only to Company's own use of such Software for the purpose of processing Transactions as set forth in this Services Agreement. BBVA Compass' Software may not be used to process transactions with or through any other party without the express written consent of BBVA Compass and only BBVA Compass' Software may be used for the services described herein. Company further acknowledges that BBVA Compass' Software contains confidential information and trade secrets, which BBVA Compass has entrusted to Company in confidence. Company shall protect BBVA Compass' property and its interest in the trade secrets contained in the Software by controlling access to the Software, permitting none of its employees nor any other person not an employee or agent of BBVA Compass to examine, alter, attach, add to, modify, decode, reverse engineer, transcribe, extract or reproduce, in whole or in part, the Software in any way. Without limiting the generality of the foregoing, Company specifically agrees that it will not delete, mask or obscure any proprietary notices, which BBVA Compass places on any Software. Company further agrees to install all new versions, upgrades, patches, protocols and/or any other changes, amendments or alterations (collectively referred to herein as "Upgrades") to the Software within 10 days of receipt of the same or receipt of notice from the BBVA Compass of where and/or how to retrieve the Upgrades. Company may make one (1) copy of the software licensed hereunder to be used exclusively for backup purposes. Otherwise, Company shall not copy the software and shall not transfer or disclose it to any other person, firm or corporation except for those employees of Company who require such knowledge of the Software in the ordinary course and scope of their employment.

8. **Company Indemnification.** Company agrees to indemnify and hold BBVA Compass, its affiliates, directors, officers, employees, and agents harmless from and against all losses, liabilities, cost, damages and expenses (including reasonable attorneys' fees and cost of litigation) to which BBVA Compass may be subjected or which it may incur in connection with any claims which might arise from or out of Company's use of BBVA Compass' lockbox distributed capture service or the processing of any check images, IRD's, or remittance documents transmitted to BBVA Compass by Company or Company's actual or apparent agent. Company shall also hold BBVA Compass, its affiliates, directors, officers, employees, and agents harmless from and against all losses, liabilities, cost, damages and expenses (including reasonable attorneys' fees and cost of litigation) to which Company may be subjected or which it may incur in connection with any claims which might arise from or out of Company's use of or the failure of any software or hardware provided, required or suggested by the BBVA Compass. The Company's indemnity obligations under this section shall survive termination of this Agreement.
9. **BBVA Compass' Right of Refusal.** BBVA Compass may, in its sole discretion, refuse to process any electronic image, IRD, or remittance document at any time without prior notification to Company.
10. **Limitation of Remedies.** In addition to the limitation of liability contained in the General Terms section of this agreement, BBVA Compass will use due care in its performance under this Services Agreement and it will, at its own expense, correct any data in which (and to the extent that) errors have been made by BBVA Compass' personnel or by malfunction of BBVA Compass' Software. However, the expense to BBVA Compass of correcting such data shall constitute BBVA Compass' only responsibility in connection with such errors or in connection with any other performance or nonperformance by BBVA Compass under this Agreement. In the event that BBVA Compass undertakes to correct any error caused by the Equipment or a third party vendor or any other third party acting on behalf of Company, BBVA Compass shall not have any liability with respect thereto.

It is Company's responsibility to verify that all Transactions were delivered to BBVA Compass and that the Transactions received by BBVA Compass were complete and accurate. A CONFIRMATION OF DELIVERY BY BBVA COMPASS DOES NOT RELIEVE COMPANY OF THIS OBLIGATION.

11. **Audit Rights.** Upon reasonable notice, BBVA Compass may audit, at its own expense, Company's hardware, Software, procedures, processes and any and all relevant business records directly relating to this Agreement. If any errors or discrepancies for the audited period are found, BBVA Compass may, in its sole discretion and option, immediately terminate this Agreement.
12. **Equipment Purchase and Maintenance.** If the Service Instructions for Lockbox Distributed Capture Services recognize that Company has requested BBVA Compass to sell and maintain the Equipment (as defined in Section 6 above), then the following provisions also shall apply:

(a) Purchase Price.

- (i) Amount. The total purchase price of the Equipment (the "Purchase Price") will be determined by mutual agreement between BBVA Compass and the Company.
- (ii) Payment. Company may choose one of the following three (3) options for payment of the Purchase Price:
 - (A) Contemporaneously with the purchase of the Equipment, Company shall pay the Purchase Price to BBVA Compass in cash or otherwise pay, or agree to pay, in full in a single installment, and BBVA Compass would thereby acknowledge receipt of such payment or agreement to pay in full via a method other than cash;
 - (B) BBVA Compass shall offset the Purchase Price against deposit account earnings credits available to Company as reflected on Company's account analysis statement in six (6) equal, successive, monthly installment amounts ("Monthly Installments"). No interest shall accrue on the unpaid portion of the Purchase Price. If such earnings credits are insufficient to pay any Monthly Installment when the same becomes due and payable, then BBVA Compass may deduct the Monthly Installment, as well as any past due Monthly Installment(s), from any of Company's accounts; or

Obligation of Payment in Full. If Customer has elected to pay the Purchase Price in installments pursuant to Section 12(a)(i) or (ii) hereof, then such obligation is absolute and unconditional and shall be unaffected by and survive any termination of the Agreement, the BBVA Compass Lockbox Distributed Capture Services or any deposit account relationship(s) or other services to which the Agreement and lockbox distributed capture services relate. In the event of termination of any of the foregoing (by either Company or BBVA Compass), any unpaid balance of the Purchase Price shall be due and payable immediately, and BBVA Compass may deduct such unpaid balance from any Company Account.

Maintenance. BBVA Compass shall provide maintenance services ("Maintenance") for the Equipment through a third party vendor in accordance with the following:

- (i) Scope of Maintenance. Maintenance will cover repair or replacement of the Equipment so that it performs in accordance with its applicable documentation. Maintenance does not include replacement of consumable items. The foregoing is the sole and exclusive Maintenance obligation of BBVA Compass as it relates to the Equipment.
- (ii) Conditions of Availability of Maintenance Services. To be eligible for Maintenance, Customer shall promptly notify BBVA Compass of any error in the operation of the Equipment, and Company must maintain the Equipment in accordance with requirements and recommendations contained in the Equipment manufacturer's documentation. Maintenance Service does not include repairs for Equipment that has been subjected to unusual or extreme physical, environmental or electrical stress, or from which the original identification marks have been removed or altered, or which is damaged due to accident, misuse, neglect, or unauthorized or improper alteration, repair, installation, testing or modification. BBVA Compass will charge Company the then-current service rates in effect for maintenance that is necessitated by any of the foregoing conditions.
- (iii) Termination of Maintenance. BBVA Compass may terminate Maintenance in accordance with the terms and conditions of Section 6 (Term; Termination) of the General Provisions of this Agreement.
- (iv) Communication. To receive Maintenance, call BBVA Compass Business Relationship Services at (800) 607-4444.

Warranty. BBVA COMPASS HEREBY ASSIGNS AND TRANSFERS TO COMPANY ALL APPLICABLE MANUFACTURER'S WARRANTIES COVERING THE EQUIPMENT. BBVA COMPASS MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE EQUIPMENT, AND IT HEREBY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES (INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTY OF NONINFRINGEMENT) AND ANY AGREEMENTS, REPRESENTATIONS, AFFIRMATIONS AND WARRANTIES, WHETHER WRITTEN OR ORAL, MADE BY ANY AGENT, EMPLOYEE OR REPRESENTATIVE OF BBVA COMPASS.

Limitation of Liability. THE SOLE OBLIGATION OF BBVA COMPASS AND THE SOLE REMEDY OF COMPANY RELATING IN ANY WAY TO THE EQUIPMENT WILL BE TO MAINTAIN IT ACCORDING TO THE TERMS HEREIN. BBVA COMPASS SHALL HAVE NO LIABILITY TO COMPANY FOR THE ACTS OR OMISSIONS OF THIRD PARTIES. IN NO EVENT WILL BBVA COMPASS BE LIABLE TO COMPANY FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER SIMILAR DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF BUSINESS OR OTHER ECONOMIC DAMAGE) ARISING OUT OF THE EQUIPMENT OR COMPANY'S USE OF OR INABILITY TO USE IT, EVEN IF BBVA COMPASS OR AN AUTHORIZED

REPRESENTATIVE OF BBVA COMPASS IS AWARE, OR SHOULD HAVE BEEN AWARE, OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER ARISING IN CONTRACT, TORT, WARRANTY OR OTHERWISE. IN NO EVENT WILL BBVA COMPASS BE LIABLE TO COMPANY FOR ANY REASON FOR ANY AMOUNT IN EXCESS OF THE PURCHASE PRICE. BBVA COMPASS NEITHER ASSUMES NOR AUTHORIZES ANY PERSON OR ENTITY TO ASSUME FOR IT ANY OTHER LIABILITIES.

Risk of Loss. Title to, and risk of loss of, or damage to, the Equipment shall pass to Company upon delivery of the Equipment.

13. **DFARS.** If Company is subject to Defense Federal Acquisition Regulation Supplement (DFARS), the following provisions apply:

- (a) Company agrees that the Software qualifies as "commercial" computer software within the meaning of all federal acquisition regulation(s) applicable to this procurement, and that the Software was developed exclusively at private expense.
- (b) If Company determines that it is unable to accept any of the license restrictions under which the Software is provided to Company because those restrictions fail to meet Company's needs or are inconsistent in any respect with federal law, Company immediately and before any use will return the Software to BBVA Compass.
- (c) Company's use, modification, reproduction, release, display, or disclosure of the Software or related documentation is subject solely to the terms of the license provided in Section 7 above.

14. **SECURITY.** Company is advised that certain of the Services may be provided by way of the Internet using the BBVA Compass Image Lockbox (collectively "BBVA Compass Internet System.") Use of any such method of communication requires that Company receive and transmit information via connection to remote computers over telephone lines or other Internet connections. Company acknowledges that data, including e-mail, electronic communications, and confidential financial data, may be accessed by unauthorized third parties when communicated to BBVA Compass using the Internet or other network or dial-up communications facilities, telephone or any other electronic means. With respect to BBVA Compass Internet System access, Company agrees to use software produced by third parties, including, but not limited to, "browser" software that supports a data security protocol compatible with the protocol used by BBVA Compass. Until notified otherwise by BBVA Compass, Company agrees to use software that supports the Secure Sockets Layer (SSL) protocol or other protocols accepted by BBVA Compass and to follow BBVA Compass' log-on procedures that support such protocols. Company acknowledges that BBVA Compass is not responsible for (i) notifying Company of any upgrades, fixes or enhancements to any such software; or (ii) any compromise of data transmitted across computer networks or telecommunications facilities, including, but not limited to, the Internet. With the exception of applications commonly known as web browser software, or other applications or access devices formally approved by BBVA Compass in writing, Company agrees not to (i) use any software, program, application or any other device to access or log on to BBVA Compass' computer systems, web site or proprietary software; or (ii) automate the process of obtaining, downloading, re-engineering, transferring or transmitting any information to or from BBVA Compass' computer systems, web site or proprietary software. In the event of any system failure, BBVA Compass may reserve the right to require additional documentation, including authorizations, from Company before accepting any order or re-instituting Company's access to the BBVA Compass Internet System. Company assumes full responsibility for its

selection of, access to, and use of products purchased from BBVA Compass as indicated on the Implementation Form. Company shall be responsible for the confidentiality, maintenance, and use both of its financial information on the BBVA Compass Internet System, and of its access number(s), password(s), log-in ID(s), and account number(s). If Company requires more than one authorized signer's signature or authorization to conduct certain transactions related to Company's account(s) or the Services, this requirement will be deemed solely for Company's own purposes. BBVA Compass will not be liable to Company as long as at least one authorized signer's signature appears on the Company's checks, drafts, instructions, or orders, or if BBVA Compass' records indicate that a transaction, payment or other product use was made by or on behalf of one authorized signer by telephone, BBVA Compass Internet System, or other method. This includes situations in which Company has provided its access number(s), password(s), log-in ID(s) and/or account number(s) to someone else to use. Company agrees not to hold BBVA Compass liable for following Company's written orders or instructions. Company agrees not to hold BBVA Compass liable for any damages of any kind resulting from Company's disclosure of its access number(s), password(s), log-in ID(s), or account numbers to any person identified or not identified on the Implementation Form. Company will be responsible for all orders and instructions entered through and under Company's access number(s), password(s), log-in ID(s), and/or account number(s), and any orders or instructions so received by BBVA Compass will be deemed to have been received from Company. All orders and instructions shall be deemed to be made at the time received by BBVA Compass and in the form received. Company agrees to immediately notify (in the manner prescribed by BBVA Compass from time to time) BBVA Compass if Company learns of:

- any loss or theft of Company's access number(s), password(s), log-in ID(s) and/or account number(s); or
- any unauthorized use of any of Company's access number(s), password(s), log-in ID(s), and/or account number(s), or of the electronic Services or any of Company's information; or
- any receipt by Company of confirmation of an order that Company did not place; or any similarly inaccurate or conflicting report or information.

LOCKBOX SERVICES

Upon Company's submission of a request for Lockbox Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Service Instructions.** These terms and conditions for Lockbox Services are supplemented by BBVA Compass' Lockbox Service Instructions (the "Lockbox Instructions"), a copy of which has been delivered by BBVA Compass to Company.
2. **Lockbox Services.** BBVA Compass is authorized and instructed by Company to receive, open, and dispose of mail addressed to Company at the lockbox address provided in the welcome letter or Service Instructions for Lockbox Services, including, without limitation, registered and certified mail, and to endorse on Company's behalf as its attorney-in-fact remittances for purposes of collecting and depositing the proceeds to Company's account(s) designated on the Service Instructions for Lockbox Services. BBVA Compass will receive mail in accordance with the schedule for mail pickup established by BBVA Compass (which BBVA Compass may change from time to time without the necessity of consent of or notice to Company). Except as otherwise provided in this Agreement or in the account processing instructions executed in connection with Lockbox Services, the credit and collection of all such remittances shall be subject to the normal terms and conditions

applicable to deposits received by BBVA Compass directly from Company.

3. **Lockbox.**

- (a) All envelopes containing checks to be processed under this Agreement shall be mailed to the address provided by BBVA Compass, which shall be the lockbox address (which BBVA Compass may change from time to time by written notice to Company).
- (b) In the event a check to be processed under this Agreement is to be delivered by hand delivery, the delivery should be made to the address provided by BBVA Compass (hand delivery shall constitute deposit into the lockbox).

4. **Record Maintenance.** BBVA Compass will create a permanent image of all checks, drafts and other instruments processed in connection with Lockbox Services. BBVA Compass will retain the image for seven years or for such other period, whether longer or shorter, if any, required by law. BBVA Compass will provide photocopies to Company upon request. Company shall provide date, the total amount of the deposit and the amount of the item in question as indexing information for photocopies requested. Also upon request, BBVA Compass will capture images of checks and/or related documents and provide them via Compass e-Access, CD-ROM, DVD or Secure FTP as described in more detail within the separate "Lockbox Service Instructions"

5. **Holidays.** No processing activity will be conducted and no deposits will be made by BBVA Compass on holidays officially recognized by BBVA Compass. Lockbox activity will be resumed the following business day.

6. **Credit Card Receipt Processing.** BBVA Compass will process credit card receipts deposited to the lockbox as point of sale transactions on behalf of Company. In this capacity and under this Agreement, BBVA Compass is not acting as a merchant processor. BBVA Compass shall not be liable for, and Company agrees to indemnify and hold BBVA Compass harmless from, any data entry error, chargeback or any other fee, cost or assessment (collectively referred to herein as "Losses") incurred by Company relating to any transaction or transactions processed under this Agreement even if such Losses could have been prevented by BBVA Compass. Company agrees that any and all exchange fees between it and its merchant processor will continue under the terms of its current agreement.

7. **Stop Files.** Certain identified payments may be stopped by the Company pursuant to the Stop File Instructions as distributed and modified from time to time. The Company must identify and communicate the information for stopping a payment or payments. Company agrees to indemnify and hold BBVA Compass harmless from any transaction stopped in error or any transaction that is processed in error.

8. **Business Associate Agreement for Covered Entities.** If the Service Instructions for Lockbox Services recognize that Covered Entity is a "Covered Entity" and, in providing Lockbox Services to Covered Entity, Business Associate may receive any "Protected Health Information" (as those terms are used in 45 C.F.R Parts 160 and 164), then the following provisions also shall apply:

(a) **Term**

The term of this Agreement shall commence on the Effective Date and shall continue for so long as Business Associate is providing the Goods/Services, unless earlier terminated pursuant to this Agreement.

(b) **Definitions**

- (i) "Effective Date" shall mean the later of (i) the effective date of the oral or written agreements pursuant to which Business Associate is providing the Services, or (ii) such later date as may be prescribed in the Privacy and Security Rules.
- (ii) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R § 164.502 (g).
- (iii) "Law" shall mean all applicable Federal and State Statutes and all relevant regulations thereunder.
- (iv) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R part 160 and part 164, subparts A and E.
- (v) "Protected Health Information" shall have the same meaning as the term "Protected Health Information" in 45 C.F.R § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (vi) "Secretary" shall mean the Secretary of the Department of Health and Human Services, or his designee.
- (vii) "Services" shall mean the payment processing services and any related services that Business Associate provides to Covered Entity, and includes all such services presently provided as well as any such services provided in the future (including, without limitation, data aggregation services).
- (viii) "Services Agreement" shall mean the one or more oral or written agreements, as may be modified from time to time, under which Business Associate provides Services to Covered Entity.

(c) **Obligations and Activities of Business Associate**

- (i) Business Associate agrees not to use or disclose Protected Health Information other than as permitted or required by this Agreement or by Law.
- (ii) Business Associate agrees to use reasonable safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (iii) Business Associate agrees to report to Covered Entity any use or disclosure of Protected Health Information in material breach of this Agreement within a reasonable time after Business Associate has actual knowledge of such use or disclosure.
- (iv) Business Associate agrees to include in any written agreement with any agent, including a subcontractor, to whom it provides Protected Health Information, a requirement that such agent agrees to restrictions and conditions with respect to such information that are at least as restrictive as those that apply through this Section 8 to Business Associate.
- (v) Upon reasonable notice, Business Associate agrees to make Protected Health Information

and books and records relating to the use and disclosure of Protected Health Information available to the Secretary at Covered Entity's expense in a reasonable time and manner, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

- (vi) Upon reasonable notice, Business Associate agrees to make available to Covered Entity, in a reasonable manner and at Covered Entity's expense, any Protected Health Information in Business Associates possession for the purpose of allowing Covered Entity to make any necessary amendments in accordance with 45 C.F.R § 164.526. Notwithstanding the foregoing, this Agreement imposes no obligation on Business Associates to maintain Protected Health Information for Covered Entity's benefit or purposes.
- (d) Permitted Uses and Disclosures by Business Associate
 - (i) Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information:
 - (A) as is reasonably necessary to perform the Services for, or on behalf of, Covered Entity;
 - (B) for the proper management and administration of the Business Associate;
 - (C) as may otherwise be required by Law;
 - (D) to provide data aggregation services relating to the healthcare operations of the Covered Party at the request and expense of the Covered Party; and
 - (E) except as provided otherwise in this Agreement, as may be permitted by Law, provided that Business Associate obtains reasonable assurances from any person to whom the information is disclosed that (A) such information will remain confidential and used or further disclosed only as required by Law or for the purpose for which it was disclosed to the person, and (B) that the person will notify Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.
 - (ii) Business Associate shall refer to Covered Entity all requests by Individuals for information about or accounting of disclosures of Protected Health Information in accordance with 45 C.F.R § 164.528.
 - (iii) Business Associate agrees to document disclosures of Protected Health Information, other than for treatment, payment or healthcare operations or disclosures that are incidental to another permissible disclosure, to the extent required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R § 164.528.
 - (iv) (A) Business Associate agrees to provide to Covered Entity or an Individual, in a reasonable time and manner, information collected in accordance with Section 4(c) of this Agreement, to the extent required to

permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R § 164.528.

- (B) Covered Entity shall provide to Business Associate, within five (5) business days of the effective date of this Agreement, a written explanation of Covered Entity's requirements under this Section 4(d) in sufficient detail to enable Business Associate reasonably to comply with such requirements.
- (C) Covered Entity agrees to respond promptly to requests from Business Associate for clarification of such requirements, and Business Associate may rely on such responses.
- (D) The parties agree to work together in good faith to resolve any disagreement over the requirements of 45 C.F.R § 164.528.
- (v) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 42 C.F.R § 164.502(j)(1).
- (e) Obligations of Covered Entity
 - (i) Covered Entity agrees not to use or disclose Protected Health Information other than as permitted or required by this Agreement or by applicable Law.
 - (ii) Covered Entity agrees to use reasonable safeguards to prevent use or disclosure of Protected Health Information other than as provided for by this Agreement.
 - (iii) Covered Entity shall notify Business Associate of any changes in Company's notice of privacy practices that may affect Business Associates use or disclosure of Protected Health Information. Business Associate shall have a reasonable period of time to act on such notices.
 - (iv) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, if such changes affect Business Associates permitted or required uses and disclosures thereof. Business Associate shall have a reasonable period of time to act on such notice.
 - (v) Covered Entity shall notify Business Associate of any restriction on the use or disclosure of Protected Health Information prior to acceptance of such restriction by Covered Entity in accordance with 45 C.F.R § 164.522 so that Business Associate can determine whether it is infeasible to comply with such restriction. Once agreed to, Business Associate shall have a reasonable period of time to act on such notice.
 - (vi) Covered Entity represents and warrants to Business Associate that Covered Entity will not disclose any Protected Health Information to Business Associate unless Covered Entity has obtained any consents and authorizations that may be required by Law or otherwise necessary for such disclosure.

- (vii) Covered Entity shall have access to Business Associates information pursuant to the terms and conditions of this Agreement. The information shall remain confidential and proprietary information. The information shall not be disclosed to any third person, business, or corporation, including any person who serves as Covered Entity's agent, except as otherwise agreed to in writing by Business Associate. Nothing in this Agreement shall be construed as granting Covered Entity any rights by license or any other intellectual property rights to the information.
- (f) Permissible Requests by Covered Entity. Covered Entity warrants that it shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under applicable Law if done by Covered Entity.
- (g) Term and Termination.
- (i) This Agreement shall be effective as of the Effective Date and shall continue for as long as Protected Health Information is being exchanged by Covered Entity and Business Associate.
- (ii) Either party may terminate this Agreement for a material breach by the other party if such breach is not cured within thirty (30) days of receipt of written notice thereof.
- (iii) It is not feasible for Business Associate to return or destroy Protected Health Information upon termination of the Services Agreement. Business Associate will maintain the protection required under this Agreement of that Protected Health Information for the period of time required under applicable Law, or in accordance with Business Associate's internal record retention schedule as in effect from time to time, whichever is longer, at which time Business Association shall destroy the Protected Health Information in accordance with procedures accepted in the financial services industry for destruction of financial records.
- (h) General Provisions
- (i) A specific waiver by either party of any provision of this Agreement on any particular occasion and for any reason will not be deemed to be a basis for any automatic waiver of the same or any other provision in the future.
- (ii) Any approvals required by either party to this Agreement shall not be unreasonably withheld.
- (iii) It is mutually agreed that neither party shall be responsible for damage caused by delay or failure to perform hereunder, when such delay or failure is due to government regulation, war, terrorism, Act of God, fire, flood, disaster, civil disorder, strike, or labor disruption or other cause that is beyond the control of the party that has failed to perform or that makes it illegal or impossible to perform this Agreement or any of its terms.
- (iv) All modifications to this Agreement shall be in writing and signed by both parties.
- (v) This Agreement is intended to bind only the parties hereto and their corporate successors, and may not be otherwise assigned by either party without the express written consent of the other.
- This Agreement constitutes the entire Agreement between the parties concerning the subject herein, and supersedes all prior oral or written agreements between the parties on the same.
- (vi) The law of the State of Alabama shall govern this Agreement.
- (vii) Neither party shall be responsible for consequential, incidental or special damages even if advised of the possibility of the same.
- (viii) The parties agree that there shall be no incidental or intended third-party beneficiaries under this agreement, nor shall any other person or entity have rights arising from the same.
- (ix) Business Associate agrees to notify Covered Entity without unreasonable delay in writing of the occurrence of a Breach, as that term is defined at 45 C.F.R. § 164.402, of which Business Associate becomes aware.
- (x) Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic Protected Health Information, to prevent use or disclosure of Protected Health Information other than as provided for by this Agreement.
- (xi) To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).
9. **Online Decisioning.** Upon Company's submission of a request for Online Decisioning and approval of the Service Instructions for Online Decisioning, Compass will provide Online Decisioning for the Designated Accounts specified by Company. For an additional fee, Compass will notify Company via email (a valid and monitored email account is required for email notification) when transactions are available for review.
- Company shall review transactions via secure online connection and notify Compass of any items or transactions that need to be returned. Company shall notify Compass of items or transactions to be returned no later than 12:00 p.m. local time. Local time is determined by the time zone of the location where the lockbox is processed. Compass shall finally deposit and credit to the applicable Designated Account all transactions or items unless the Company instructs Compass to withhold an item or items from further processing. Presented items that the Company instructs Compass to withhold from processing will be forwarded by Compass to the Company and it will be Company's sole responsibility to comply with any applicable deadlines for further processing, negotiation or returning such items.
- If Company fails to instruct Compass to withhold processing by the applicable deadline, Company authorizes and directs Compass to deposit or return the presented items to the Company per the Company's default requirements set up at the time the service is implemented, unless Compass determines in its sole discretion that a presented check is not or may not be properly payable. If Company sends in payment instructions after the disposition deadline, Compass will attempt to honor the request but the Company must reimburse and hold Compass harmless from any cost, suits, expenses, liabilities, damages and attorney's fees related to the request.
- Company agrees to indemnify and hold Compass harmless from any and all liabilities, claims and expenses

of any kind or nature whatsoever for any encoding errors in the report provided to the Customer listing presented items and/or transactions, any missed deadlines for returning checks or otherwise arising out of its use of the Online Decisioning service (including the reasonable fees and disbursements of counsel in connection with any investigative, administrative, or judicial proceeding, whether or not any indemnified person shall be designated a party thereto); provided that Company shall have no obligation to any indemnified person hereunder with respect to any such liabilities, claims or expenses arising from the gross negligence or willful misconduct of such indemnified person.

From time to time, Compass shall establish or modify procedures relating to Online Decisioning, which procedures may include security procedures and a format for reports and data. The Company agrees to follow and be bound by those procedures. Compass shall have the right in its discretion to change all or any of the procedures at any time upon prior notice to Company (or without prior notice if Compass has reason to believe that those changes are necessary to protect the safety or integrity of any account held at Compass). Notwithstanding the foregoing, Compass will use reasonable efforts to notify Company of any change in the procedures at least ten (10) days prior to any change.

Company hereby assumes all risk and responsibility for the compilation, accuracy, transmission and delivery of any and all information or data, including, without limitation, any payment instructions delivered by Company to Compass. Compass shall have no obligation to insure the receipt or accuracy of any information or data furnished by Company in connection with the Online Decisioning Service, and shall have no obligation to make any inquiry or initiate any follow-up investigation regarding the receipt or accuracy of any such information or data. Company hereby authorizes Compass, without investigation or inquiry, to rely and act upon the contents of any information or data received from Company which Compass reasonably believes is authorized by Company. Company is solely responsible for assuring that the payment instructions are in the format required by, and otherwise complies with, the procedures for Online Decisioning.

UCC Article 4 and Regulation CC. In accordance with Section 4-103 of the UCC, this Agreement shall vary the effect of any provisions of Article 4 of the UCC and of Regulation CC (12 C.F.R. Section 229.1 et seq.) which are inconsistent with this Agreement.

With regard to the secure online access required for Online Decisioning, Company shall designate in writing to Compass those individuals who will be permitted to access and transmit decisions on behalf of the Company ("Designated Users"). The designating document must contain the original signatures of a person whose signature appears on the Authorization Certificate for the BBVA Compass Treasury Management Services Agreement. Online Decisioning shall only be accessed and services shall only be conducted or transacted, only by the Designated Users. If Company desires to change or add a Designated User, Company shall provide prior written notice to Compass of such change, signed by a person whose signature appears on the Authorization Certificate for the BBVA Compass Treasury Management Services Agreement. The notice may be telefaxed to Compass, but it must be followed by a document with an original signature on it. No change of Designated Users by Company shall be effective until accepted by Compass, and Compass has had a reasonable opportunity to update its records. After Company has designated to Compass the identity of the Designated Users, Compass shall provide the Designated Users with the World Wide Web address where the Online Decisioning Services shall be accessible. Compass shall also provide each Designated User a password (the "Password"), a unique user identification code ("User ID") the use of which permits general recognition of the Designated

User by the Online Decisioning Services system, and a user personal identification number ("PIN"). Every Designated User must change the PIN when the Designated User first initiates a transaction using Online Decisioning and every ninety (90) days thereafter. **Company agrees to hold harmless Compass from and against any loss caused by the failure by any Designated User to change the PIN when required by this agreement, and expressly assumes the risk of loss with respect to any transaction initiated by any Designated User whose PIN has not been maintained according to the terms of this Agreement.**

Company acknowledges that while Compass will attempt to ensure that the Password, all User IDs, all PINs and all electronic communications between Company and Compass are encrypted, scrambled or otherwise protected against interception by a person whose access to Online Decisioning is unauthorized, Company nonetheless accepts and assumes all risk of loss or dissemination of information attributable to the electronic communications between Company and Compass through Online Decisioning. Each Designated User is responsible for safekeeping the Password, all User IDs, and all PINs (singularly, a "Company Code", and collectively, the "Company Codes"). Company and each Designated User shall not, at any time, permit access to Online Decisioning by any person who does not need to obtain access to Online Decisioning consistent with Company's rights hereunder. If a Designated User loses or forgets a Password, User ID or PIN, the Designated User should contact Compass for assistance.

If Company or any Designated User believes that one or more Company Codes have become known or obtained by unauthorized persons (whether or not employed by Company), the Company shall immediately notify Compass to enable Compass to disable the affected Company Code(s). Additionally, Compass may change or disable any Company Code at any time and for any reason. If Compass takes such action, Compass will make every reasonable effort to notify Company promptly. Compass assumes no responsibility to discover, audit, or report to Company any possible breach of security by Company's agents or representatives or anyone else for unauthorized disclosure or use of Company Codes. Company acknowledges that the security procedures in this Section constitute commercially reasonable security procedures for the Company.

If Company is unable to access Online Decisioning or transact or conduct any Online Decisioning, Company shall immediately notify Compass of such inability.

Compass may rely upon any Online Decisioning instruction communicated or conducted through or by use of Online Decisioning as properly authorized by Company (including, without limitation, any instructions or information related thereto it receives from Company through Online Decisioning). Each Designated User to whom Compass has provided access to Company Codes, or who has otherwise obtained access to Company Codes, is deemed an authorized representative of Company for purposes of all Online Decisioning transacted or conducted through or by use of Online Decisioning, whether or not such person is authorized by this Agreement or any other agreement between Compass and Company.

Notwithstanding the terms of any Treasury Management Services Agreement or any other agreement between Company and Compass, once Company accesses Online Decisioning, Compass will not verify that any transaction is authorized and Company is solely responsible for the accuracy and completeness of any data or information received by Compass. Compass is authorized by Company to process transactions in accordance with information Compass receives electronically or otherwise from Company. Company shall be solely responsible for the information contained in the instructions and Compass shall have no responsibility for erroneous data provided by Company. Compass shall have no liability for losses resulting

from or related to Company's failure to limit access to Online Decisioning or maintain the confidentiality of the Company Codes. At the sole discretion of Compass, Compass may also require the use of other identifying information or other security procedures for certain Online Decisioning and Compass may add to, change or delete any security procedure.

Grant of License. Compass hereby grants Company a limited, nonexclusive, non-transferable, limited term, royalty-free, revocable sublicense to use Online Decisioning and the software creating, maintaining and supporting Online Decisioning (the "Software") and the printed user materials provided in connection therewith (the "Documentation") solely to conduct transactions in connection with the Online Decisioning, for Company's internal business purposes only. Except as specifically provided herein, Compass does not grant to Company any other right or license, express or implied. Company may not sublicense, sell, lease, distribute or provide access to Online Decisioning, the Software or Documentation to any third parties, nor use the Software or Documentation in a service bureau, time-sharing or other similar arrangement, nor make any other use of the Software or Documentation that is not expressly permitted hereunder. Compass or a third party are the exclusive owners of and shall retain all right, title and interest in and to Online Decisioning, the Software, the Documentation and the Intellectual Property Rights (as defined herein).

Equipment. In connection with its use of Online Decisioning services for the purposes provided in this Agreement, or otherwise, Company shall obtain Internet browser software specified by Compass. Company shall be solely responsible for ensuring equipment and software compatibility with the Online Decisioning service. All hardware and telecommunications equipment will be purchased and maintained by Company.

Compass Representations and Warranties. Subject to all terms of this Agreement, Compass warrants that it has the right to grant the sublicense to the Software and Documentation. In the event the Software or Documentation, or any portion thereof, is held to constitute an infringement of any third party's rights, and use thereof is enjoined, Compass shall, at its election: (a) promptly procure the right for Company; or (b) notify Company of its intent to discontinue use of the Software and Documentation.

Limitation of Liability; Indemnity. Notwithstanding any other provision of this Agreement or any other agreement between Compass and Company, neither Compass nor any of its suppliers, licensors, service providers or vendors (collectively, including Compass, the "Providers") shall have any liability for any liabilities, losses, damages, claims, judgments, costs or expenses collectively, "Damages") that Company asserts or sustains as a result of Company's use of Online Decisioning.

The liability of Compass or any other Provider for any Damages asserted by Company arising as a result of the acts or omissions of any Provider shall be limited to interest on the funds at issue at the "federal funds rate" paid by Compass at the close of business on each day such act or omission remains uncorrected; provided, however, if Compass or such other Provider is unable to recover funds from a person or entity who or which receives such funds as a result of such Provider's acts or omissions and who has no claim to such funds, such Provider shall be liable for Company's actual loss, not to exceed the amount of unrecovered funds to which such unauthorized recipient has no claim, plus interest rate described above.

Notwithstanding any other provision of this Agreement, no Provider shall have any responsibility for Damages arising, directly or indirectly, from any error, delay or failure to perform any obligation hereunder which is caused by fire, natural disaster, strike, civil unrest, any inoperable communications facilities or any other circumstance beyond the reasonable control of Compass or such other Provider. In no event shall any Provider be liable to Company or any third party for any indirect, consequential, special, punitive or exemplary damages.

Company shall indemnify, protect and hold the Providers and their respective officers, directors, employees, attorneys, agents and representatives (each, an "Indemnified Person") harmless from and against any and all Damages imposed upon or incurred by a Provider or in any way relating to this Agreement or Online Decisioning. Company will, at its own expense, defend any action or proceeding brought against any Indemnified Person in connection with such Damages. In addition to the foregoing, all disclaimers and limitations on the liability of Compass and the obligation of Company to indemnify Compass, whether under this Agreement or any other agreement between Compass and Company applicable to the Online Decisioning shall apply equally to all other Providers with respect to access to or use of, or any Online Decisioning transacted through or by use of, Compass e- Transmit.

Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, ONLINE DECISIONING, THE SOFTWARE AND THE DOCUMENTATION ARE PROVIDED FOR COMPANY'S USE DURING THE TERM HEREOF "AS IS" AND "WHERE IS", AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPASS AND THE OTHER PROVIDERS MAKE NO REPRESENTATIONS OR WARRANTIES AND DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO ONLINE DECISIONING, THE SOFTWARE OR THE DOCUMENTATION, OR USE OF ONLINE DECISIONING BY COMPANY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY AND NON-INFRINGEMENT. COMPASS DOES NOT WARRANT THAT THE OPERATION OF ONLINE DECISIONING OR SOFTWARE WILL BE UNINTERRUPTED, ERROR FREE OR FREE FROM ANY OTHER PROGRAM LIMITATIONS. COMPASS DOES NOT MAKE ANY REPRESENTATION REGARDING THE USE OR THE RESULTS OF THE USE OF ONLINE DECISIONING, THE SOFTWARE OR THE DOCUMENTATION IN TERMS OF THEIR CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. COMPANY ACKNOWLEDGES THAT IT MUST PROVIDE ALL EQUIPMENT AND PROVIDE AND MAINTAIN SERVICE THROUGH AN INTERNET SERVICE PROVIDER ("ISP") SUITABLE TO ACCESS COMPASS E- TRANSMIT AND IS SOLELY RESPONSIBLE FOR ALL FEES, COSTS AND CHARGES ASSOCIATED WITH AND MAINTENANCE OF SUCH EQUIPMENT OR SERVICE. COMPANY ACKNOWLEDGES THAT ITS ISP MAY HAVE UNINTENDED EFFECTS ON COMPANY'S USE OF ONLINE DECISIONING AND THE ABILITY TO CONDUCT OR TRANSACT ONLINE DECISIONING (INCLUDING, WITHOUT LIMITATION, COMPANY'S ABILITY TO ACCESS ONLINE DECISIONING), AND THAT COMPASS SHALL HAVE NO RESPONSIBILITY FOR SUCH EFFECTS. COMPANY ACKNOWLEDGES THAT THE SOFTWARE MUST INTERFACE WITH COMPASS' COMPUTERS, AND ASSUMES THE RISK THAT COMPASS' COMPUTERS MIGHT NOT BE OPERATIONAL OR COMPATIBLE AT ALL TIMES. COMPANY FURTHER ACKNOWLEDGES THAT COMPASS SHALL HAVE NO LIABILITY OR RESPONSIBILITY FOR THE SATISFACTORY PERFORMANCE OF COMPANY'S HARDWARE AND SOFTWARE USED TO INITIATE OR RECEIVE COMMUNICATIONS OVER THE INTERNET. COMPANY ALSO ACKNOWLEDGES THAT ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF ONLINE DECISIONING IS DONE AT COMPANY'S OWN DISCRETION AND RISK AND THAT COMPANY WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO COMPANY'S COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

Proprietary Rights. Company acknowledges that Compass or the other Providers shall retain all rights, title and interests in and to Online Decisioning, the Software (including, without

limitation, the source code, listings, magnetic media and any support materials related thereto) and Documentation, as well as the ideas and concepts incorporated in those items, and all modifications, improvements and enhancements thereof and additions thereto, including ownership of all trade secrets, copyrights and other associated proprietary and intellectual property rights pertaining thereto (collectively, the "Intellectual Property Rights"), except as granted hereunder. Company shall not take any action that is inconsistent with the Intellectual Property Rights of Compass or any Provider, nor shall it take any actions or engage in any conduct that violates the Intellectual Property Rights of Compass or any other Provider.

The Software and Documentation include trade secrets and other proprietary information of Compass and its suppliers, licensors, service providers and vendors and are confidential property of such person(s) or legal entity(ies). Company shall treat as confidential and shall not disclose or otherwise make available the Software, the Documentation (collectively, the "Confidential Information"), in any form, to any person other than Company's employees who have a need to know such Confidential Information. Company shall not attempt to nor shall it reverse engineer, disassemble, decompile or otherwise attempt to derive source code from Confidential Information, make the Confidential Information available to any third parties, modify, adapt, translate or create derivative works based upon such Confidential Information, or permit or authorize any third party to do any of the foregoing.

Company will instruct its employees who have access to the Confidential Information to keep the same confidential, by using the same care and discretion which Company uses with respect to its own confidential property and trade secrets. Company agrees that it shall not take any action to change or make any modification to Online Decisioning or the Software.

Company's Additional Representations, Warranties and Covenants. Company represents and warrants that each electronic communication submitted to Compass by the Company by use of Online Decisioning fully satisfies and complies with all applicable requirements of all applicable laws and regulations. Company expressly warrants (a) that Company is not a "Consumer" as defined in Section 205.2(e) of Regulation E promulgated by the Board of Governors of the United States Federal Reserve Board pursuant to the Consumer Credit Protection Act, as amended, 15 U.S.C. 1601 et. seq., and (b) that all transactions initiated by Company using Online Decisioning are for commercial purposes, and not for personal or household purposes.

Termination. Notwithstanding any other provision regarding termination set forth herein or in any other agreement between Compass and Company, Compass may terminate Company's access to and its ability to transact Online Decisioning through Online Decisioning at any time, effective immediately. Compass shall use reasonable efforts to communicate notice of the termination to Company promptly, and will thereafter provide written confirmation of the Termination if the initial notice of termination was not communicated in writing. Compass may require Company to execute additional documents or agreements to continue to conduct or transact Online Decisioning through or by use of Online Decisioning at any time.

ONLINE FUNDS TRANSFER SERVICE

Upon Company's submission of a request for the Funds Transfer Service and the approval of the Service Instructions for this Service, or upon its use of the Service, whichever occurs first, Company agrees:

1. **Description of the Service.** With this Service, Company may initiate funds transfers under Article 4A of the UCC, which are commonly referred to as "wire transfers." Company's use of the Funds Transfer Service is subject to the General Provisions of

this Agreement, the following terms and conditions for this Service, the applicable Service Instructions, and all Applicable Laws.

2. **Definitions.** For purposes of this Agreement, the following definitions apply:
 - (a) "Authorized Wire User" means each officer and employee of Company who has been designated in writing as having the authority to initiate wire transfers (as defined in the Funds Transfer Service) on Company's behalf. For purposes of wire transfers initiated through the SWIFT network or utilizing the Host to Host service, "Authorized Wire User" shall mean those authorized to set up/initiate wire transfer deliveries in those channels.
 - (b) "Domestic Wire Transfer" means an outgoing funds transfer in U.S. Dollars (USD) sent either:
 - (i) to the beneficiary's account at a bank located in the United States; or
 - (ii) to a bank located in the United States, for credit to the beneficiary's account at a bank located outside the United States. This kind of a transfer is commonly referred to as an "International Fed Wire."
 - (c) "Drawdown Wire Transfer Request" is an instruction by Company to debit an account held by Company or another party at a different financial institution. The party holding the account to be debited must authorize the requested Drawdown wire Transfer.
 - (d) "International Wire Transfer" means an outgoing funds transfer sent either:
 - (i) in U.S. Dollars to the beneficiary's account at a bank located outside the United States; or
 - (ii) in foreign currency to the beneficiary's account at a bank located outside the United States.
 - (e) Capitalized terms not otherwise defined herein shall have the meanings assigned in the BBVA Compass treasury Management Services Agreement.
3. **Company Designations.** In the Set-Up Form for this Service, as it may be modified from time to time, Company shall designate, among other items:
 - (a) Each Authorized Wire User;
 - (b) Each Company Account from which payment orders may be made (a "Wire Transfer Account");
 - (c) The maximum amount of any single payment order that may be made by an Authorized Wire User.
4. **Authorization for Funds Transfers.** BBVA Compass is authorized and directed to act upon Company's instructions to transfer funds of Company in accordance with the terms and conditions for this Service. Company authorizes BBVA Compass (a) to provide an Authorized Wire User any information related to this Service; (b) to execute payment orders upon the request of any Authorized Wire User, and (c) to take any other actions requested by an Authorized Wire User with regard to this Service. Without limiting application of the Manual Security Procedures described below, BBVA Compass is authorized and directed to act on any oral or written directions from a person representing himself as an Authorized Wire User which BBVA Compass believes to have been signed, sent or made by an Authorized Wire User. BBVA Compass may, but is not required to, record any voiced instructions transmitted to BBVA Compass.
5. **Manual Security Procedures.** The following security procedures apply to wire transfers initiated manually under this

Service (the “**Manual Security Procedures**”). For the purposes of this Service, funds transfers are initiated manually when they are submitted in person, over the phone, or by telefax. Wire transfers initiated online are not submitted manually.

To each Authorized Wire User, BBVA Compass will assign a unique personal identification number (“PIN”), which the Authorized Wire User must provide to BBVA Compass when initiating, amending, or canceling a payment order. Company may request BBVA Compass to change a PIN upon prior written request, and BBVA Compass may change a PIN by providing written notice of the new PIN to Company. If the Authorized Wire User does not provide BBVA Compass with the correct PIN, Compass will refuse to accept, amend, or cancel any payment order.

Company agrees that the Manual Security Procedures constitute commercially reasonable security procedures for the Company. Company agrees to be bound by any payment order, whether or not authorized, issued in Company’s name and accepted by BBVA Compass in compliance with the Manual Security Procedures. If a payment order is accepted by BBVA Compass in compliance with the Manual Security Procedures and the payment order contains any error, to the full extent allowed by law Company shall be liable for, and indemnify BBVA Compass against, the amount of the payment order and all claims and all of BBVA Compass’ losses and expenses, including attorney’s fees, relating to the erroneous payment order. BBVA Compass’ records demonstrating the use of the Manual Security Procedures will be deemed conclusive proof that any payment orders received by BBVA Compass were authorized and approved by the Company.

If a payment order (or request for cancellation or amendment of a payment order) received by BBVA Compass was transmitted or authorized by Company, Company shall be obligated to pay the amount of the payment order whether or not BBVA Compass complied with the Manual Security Procedures with respect to that payment order and whether or not that payment order was erroneous in any respect or whether or not that error would have been detected if BBVA Compass had complied with such procedures.

6. Transfer Requests.

(a) Initiating Transfers. Except as otherwise provided in this Agreement, Company may use this Service to transfer funds from a Wire Transfer Account to any other account with BBVA Compass or an affiliate of BBVA Compass, or to an account at another bank or financial institution. Funds transfer requests will be accepted during the normal business hours of BBVA Compass’ Wire Transfer Department, which are subject to change upon notice to Company. Company agrees that, except as otherwise provided for herein, all funds transfers originated by or on behalf of Company shall comply with this Agreement, Applicable Law, including Article 4A of the UCC.

- (i) Domestic Wire Transfers and Drawdown Requests: Domestic wire transfers and Drawdown Wire Transfer Requests initiated by Company and received by BBVA Compass by its designated cutoff time on a day that both BBVA Compass and the Federal Reserve are open for business will be processed the same day; however, if the Federal Reserve is closed on a day BBVA Compass is open for business, the wire transfer will be processed by the Federal Reserve on the next Business Day the Federal Reserve is open for business. Domestic wire transfers and Drawdown Wire Transfer Requests received by BBVA Compass after its designated cutoff time on a day BBVA Compass is open for business or at any time on a day on which BBVA Compass is

not open for business will be processed on the next day BBVA Compass and the Federal Reserve are open for business

- (A) Drawdown Wire Transfer Requests: BBVA Compass assumes no responsibility for the failure by any financial institution receiving a Drawdown Wire Transfer Request to approve the Request, and has no duty to notify Company if the Request is not approved.
- (B) (Incoming Drawdown Wire Transfer Requests: BBVA Compass assumes no responsibility for wire transfer requests initiated by Company-authorized third parties. Company must authorize such requests in accordance with the procedures and policies set out by BBVA Compass from time to time.
- (ii) International Wire Transfers: International wire transfers initiated by Company and received by BBVA Compass by its cutoff time on a day that BBVA Compass is open for business will be processed the same day. International wire transfers received by BBVA Compass after its designated cutoff time on a day that BBVA Compass is open for business or at any time on a day on which BBVA Compass is not open for business will be processed on the next day BBVA Compass is open for business.
- (A) For any International Wire Transfer initiated in Mexican Pesos, the scheduled "Value Date" (i.e., the date the wire transfer posts to the beneficiary’s account) will be the same Business Day on which processing of the wire transfer is completed. For any International Wire Transfer initiated in Canadian Dollars, the scheduled Value Date will be one (1) Business Day after the day on which processing of the wire transfer is completed.
- (B) For International Wire Transfers initiated in any other foreign currency, the scheduled Value Date will be two (2) Business Days after the day on which processing of the wire transfer is completed. The foreign currency exchange rates quoted for International Wire Transfers will be used for each foreign currency International Wire Transfer initiated UNLESS Company obtains a custom rate and related confirmation number from BBVA Compass and properly enters the custom rate confirmation number in the designated field when initiating the wire transfer.
- (C) Unless Company instructs otherwise, Correspondent Charges will be deducted from any payment made to the beneficiary. Beneficiary Bank fees may also apply, and may be deducted from the payment made to the beneficiary.

- 7. **USD Auto Conversion.** The following section is applicable to Non-Consumer transactions only. If Company requests that United States Dollars (USD) be sent to a foreign country by initiating an international wire transfer in USD through BBVA Compass, BBVA Compass may (but is under no obligation to do so) automatically convert, or arrange with any of its designated correspondent banks to automatically convert, the Company’s USD wire transfer to the foreign currency of the beneficiary’s account (“AutoConvert”).

In the alternative, the beneficiary's bank (or its correspondent) may upon receipt convert the payment into the relevant foreign currency. Neither alternative requires any action or processing change on the Company's part. However, the Company may, if it chooses to, opt out of AutoConvert, either in full (i.e., as to all beneficiaries and foreign currencies), or in part (i.e., only as to certain beneficiaries and currencies), by sending a written notice to BBVA Compass clearly detailing its request, in which event, neither BBVA Compass nor its designated correspondent banks will convert such wire transfer amounts from USD.

In the event that the Company's wire is automatically converted by BBVA Compass or its designated correspondent bank under AutoConvert, and the foreign beneficiary requires the payment to be received in USD, the wire will be re-converted by our designated correspondent bank and settled in USD.

If the Company's transfer is returned for any reason, the Company agrees to accept the refund in USD. BBVA Compass will calculate the refund based on the buying rate of exchange of the foreign currency on the date of the refund. The exchange rate will include a commission to BBVA Compass for making the exchange. The Company agrees to accept this amount as a full refund, even if it is less than the original amount BBVA Compass transferred. The Company also agree to pay BBVA Compass all other charges and expenses BBVA Compass incurs either as a result of a USD or foreign currency funds transfer.

Transactions processed in foreign currency denominations are subject to daily (or more frequent) changes in exchange rates. When BBVA Compass or our specified correspondent bank converts a transaction under AutoConvert, BBVA Compass may determine at its discretion the currency exchange rate and then assign that currency exchange rate to the Company's transaction. The Company agrees to this procedure and agrees to accept the resulting determination of the currency exchange rate. BBVA Compass and its designated correspondent banks may consider many factors in setting currency exchange rates for these purposes. These factors include exchange rates set by others, its desired rates of return, market risk, and credit risk. Neither BBVA Compass nor any of its correspondent banks shall be responsible for any liability the Company may incur if its currency exchange rates are different from rates (1) offered or reported by third parties; (2) offered by BBVA Compass (or our correspondent) at a different time, at a different location or for a different transaction amount; or (3) that involve different payment media (such as bank notes, checks and wire transfers). The Company further acknowledges that: (a) its currency exchange rates for retail and commercial transactions, and for transactions affected after its regular business hours or on weekends, are different (and usually less favorable to the Company) than the exchange rates for large interbank transactions affected during a business day, and (b) revenue resulting from fees and rates assessed or applied by our designated correspondent banks in connection with currency conversions under AutoConvert may be shared between BBVA Compass and its correspondent.

Alternatively, when a beneficiary's bank (or its correspondent bank) converts a USD transaction into a foreign currency, such conversion will be subject to rates and fees assessed by such banks, and may be further subject to various local laws and practices. BBVA Compass has no control over those rates, fees or conditions, and the Company authorizes BBVA Compass to process any resulting charges or credits to the Company's account.

8. **Foreign Exchange Rates.** A daily exchange rate for each supported currency will be set and published each business day. Those rates will be applied to all transactions initiated on the same day unless Company contacts us to request a custom rate quote. Any exchange rates quoted are subject to change without notice until accepted by the Company. BBVA Compass is not liable for exchange rate changes that may adversely affect Company prior to acceptance of any quote. BBVA Compass reserves the right to correct any misquoted or mistaken rates,

including, but not limited to, the right to substitute the correct exchange rate or decline to process the wire transfer.

Acceptance of the exchange rate by Company is an irrevocable agreement to complete the referenced transaction(s). Company will be liable for any and all losses, costs, commissions, fees and/or damages suffered and/or paid by BBVA Compass if the transaction(s) is not completed, if the foreign exchange transaction is reversed and/or if the transaction(s) is cancelled.

9. **Honoring Transfers.** BBVA Compass will honor a request for a funds transfer from an Authorized Wire User only if the request is made in accordance with the terms and conditions of this Agreement. BBVA Compass is under no obligation to honor, either in whole or in part, any funds transfer request or amendment thereto that (i) exceeds the aggregate collected balance in the Wire Transfer Account designated for that transfer; (ii) is not in accordance with each term and condition provided for in this Agreement (iii) is not, or BBVA Compass believes may not be, authorized or correct; or (iv) is impracticable or not feasible to accept. In addition, BBVA Compass shall be excused from failure to transmit or delay acceptance of a payment order if such acceptance would result in BBVA Compass exceeding any regulatory limitation upon its intra-day net funds position or in BBVA Compass' otherwise violating any provision of any Applicable Laws. If the designated Wire Transfer Account does not contain sufficient funds to accomplish a transfer, BBVA Compass, at its sole discretion, may but shall have no obligation to accept the payment order and debit that Account into overdraft, and BBVA Compass shall not be liable for damages to Company as a result thereof. If BBVA Compass creates an overdraft to complete a funds transfer, Company agrees to pay to BBVA Compass the amount of the overdraft upon demand, together with interest accruing on the amount of the overdraft from the date of its creation at the maximum rate of interest permitted under Applicable Laws. Company authorizes BBVA Compass to charge any Company Account (even if not a Wire Transfer Account) at any time for the amount of both the overdraft and the accrued interest.

Notwithstanding anything herein to the contrary, BBVA Compass agrees to use reasonable efforts to execute each properly authorized funds transfer request on the same day it is received, unless a future payment date is specified, provided (x) the request is received by BBVA Compass before the applicable cut-off time; and (y) that day is a Business Day for BBVA Compass, the communication facility selected by BBVA Compass, and the receiving bank. In executing any funds transfer requests, BBVA Compass may utilize such means of transmission as BBVA Compass reasonably selects. If Company initiates multiple payment orders for execution on the same Business Day, BBVA Compass may execute the payment orders in any order convenient to BBVA Compass. If Company directs BBVA Compass to use a specific intermediary bank or specific means of execution, Company assumes all risks of failure or of non-payment by the intermediary bank and all risks of loss by the means directed. Until BBVA Compass receives final settlement in collected funds, BBVA Compass has no obligation to accept or pay Company the amount of a payment order showing Company as beneficiary. If BBVA Compass does not receive such final settlement, Company agrees to refund all amounts BBVA Compass paid to Company relating to the payment order and the originator of the payment order shall be deemed not to have paid Company.

10. **Canceling and Amending Payment Orders.** If Company wishes to cancel or amend a payment order previously transmitted to Compass, Company must transmit notice of the requested cancellation or amendment in compliance with the Security Procedures, and must include the amount and recipient of the payment order in the notice. BBVA Compass will make a reasonable effort to comply with any request by Company to cancel or amend a payment order that is made before BBVA Compass' acceptance of that payment order, but only if BBVA Compass's Wire Transfer Department has been given sufficient

notice and a reasonable opportunity to act on it. BBVA Compass shall have no obligation or duty to cancel or amend a payment order received from Company after BBVA Compass accepts the payment order. If BBVA Compass consents to cancel or amend an accepted payment order, Company shall indemnify and hold BBVA Compass harmless for all loss and expense, including attorney's fees, relating to the cancellation and amendment or attempted cancellation and amendment. Federal regulations require that BBVA Compass include certain information about Company in any funds transmittal order by Company, including Company's true name and street address. BBVA Compass' system will include Company's street address contained in its account records unless no such address is on record, in which case BBVA Compass will include the street address provided by Company in the Set-Up Form for this Service. Company agrees to promptly notify BBVA Compass of any changes or corrections to Company's information maintained by BBVA Compass, including Company's street address. Company agrees that, upon and by requesting any transfers of funds through this Service, Company has verified that the information about Company that is maintained by BBVA Compass is both accurate and complete.

11. **Repetitive Funds Transfers.** BBVA Compass will assign a unique "Repetitive Number" to each manual repetitive wire transfer request (i.e., funds transfer requests made routinely with instructions remaining constant except for the date and dollar amount) except for those repetitive wires transfer templates established on Compass e-Access. Manual instructions for repetitive wire transfers must be specified on a form supplied to Company by BBVA Compass for that purpose. To initiate a manual repetitive wire transfer, an Authorized Wire User, or an individual designated by an Authorized Wire User for that repetitive wire transfer, must provide BBVA Compass, in addition to compliance with the Manual Security Procedures, with the following information prior to initiating the wire funds transfer:

- (a) Wire Transfer Account Number from which funds are to be drawn;
- (b) Appropriate Repetitive Number; and
- (c) Amount to be transferred.

If an incorrect Repetitive Number or other incorrect information is provided in connection with a repetitive wire transfer request, BBVA Compass will not execute the funds transfer request pursuant until the correct Repetitive Number and/or information is provided. If for any reason the Authorized Wire User, or the individual designated by an Authorized Wire User for that repetitive wire transfer, does not provide any Repetitive Number (incorrect or otherwise), then BBVA Compass will consider such funds transfer request to be a non-repetitive wire transfer under Section 7 below.

12. **Non-Repetitive Funds Transfers.** A non-repetitive wire transfer is a funds transfer request for which the requesting designated representative does not provide BBVA Compass with a Repetitive Number. To initiate a non-repetitive wire transfer request, the requesting designated representative must provide BBVA Compass with the following information prior to initiating the funds transfer:

- (a) Wire Transfer Account Number from which funds are to be drawn;
- (b) Amount to be transferred;
- (c) Bank to which funds are to be transferred; and
- (d) Name and address of the beneficiary to receive the funds and account number to which funds are to be transferred.

NOTICE. IF A FUNDS TRANSFER ORDER ISSUED BY CUSTOMER IDENTIFIES THE BENEFICIARY OF THE FUNDS TRANSFER INCONSISTENTLY BY NAME WITH THE BANK ACCOUNT OR THE BANK ACCOUNT NUMBER PROVIDED IN

CONNECTION WITH THE FUNDS TRANSFER, PAYMENT OF SUCH FUNDS TRANSFER ORDER SHALL BE MADE ON THE BASIS OF THE BANK ACCOUNT NUMBER OR IDENTIFYING NUMBER EVEN IF SUCH NUMBER IDENTIFIES A PERSON OR ENTITY DIFFERENT FROM THE NAMED BENEFICIARY; AND BBVA COMPASS NEED NOT DETERMINE WHETHER THE NAME AND NUMBER REFER TO THE SAME PERSON OR ENTITY. IF A FUNDS TRANSFER ORDER ISSUED BY CUSTOMER IDENTIFIES AN INTERMEDIARY BANK OR BENEFICIARY'S BANK ONLY BY AN IDENTIFYING NUMBER OR BY BOTH NAME AND IDENTIFYING NUMBER, THE RECEIVING BANK MAY RELY ON THE IDENTIFYING NUMBER AS THE PROPER IDENTIFICATION OF THE INTERMEDIARY BANK OR BENEFICIARY'S BANK, EVEN IF SUCH NUMBER IDENTIFIES A BANK OR INSTITUTION DIFFERENT FROM THE BANK IDENTIFIED BY NAME; AND THE RECEIVING BANK NEED NOT DETERMINE WHETHER THE NAME AND NUMBER REFER TO THE SAME INSTITUTION OR WHETHER THE NUMBER REFERS TO THE BANK. THE FOREGOING IS INTENDED TO BE CONSISTENT WITH AND SUBJECT TO THE TERMS AND PROVISIONS OF SECTIONS 4A-207 AND 4A-208 OF THE UCC, EXCEPT THAT KNOWLEDGE (WHETHER ACTUAL OR CONSTRUCTIVE) BY BBVA COMPASS OF ANY DISCREPANCY OR IN INCONSISTENCY IN THE INFORMATION PROVIDED IN CONNECTION WITH ANY FUNDS TRANSFER SHALL NOT CHANGE OR IMPAIR THE RIGHT OF BBVA COMPASS TO EXECUTE A FUNDS TRANSFER REQUEST AS PROVIDED IN THIS SUBSECTION BBVA COMPASS SHALL NOT BE LIABLE FOR EXECUTING ANY FUNDS TRANSFER REQUEST EVEN WHEN IT HAS KNOWLEDGE OF THE DISCREPANCY OR INCONSISTENCY.

13. **Automatic Standing Funds Transfers.** An automatic standing funds transfer ("AST") is a standing order of Company instructing BBVA Compass to make multiple transfers from a Company Account automatically and without further actions by Company (an "AST Order"), with each individual AST being in an amount established according to criteria defined by Company to a recipient and at intervals specified by Company. To initiate an AST Order, Company must provide the following information to BBVA Compass:

- (a) The account number for the Company Account from which funds are to be drawn;
- (b) Criteria to determine the amount to be transferred;
- (c) Routing number of the financial institution to which funds are to be transferred;
- (d) Name of the recipient and account number to which funds are to be transferred; and
- (e) Dates or intervals on which the transfers are to be automatically made, including any date by which the transfers shall cease.

BBVA Compass will make each AST according to Company's AST Order instructions, unless notified by Company in writing to cancel that AST Order. With respect to each AST and AST Order, BBVA Compass has: (i) no duty to make any inquiries regarding the performance of any contract or the completion of any transaction between Company and any recipient of an AST; (ii) no obligation to Company other than to make each AST according to Company's instructions; and (iii) no liability if BBVA Compass fails to make any AST if there are insufficient funds in the designated Company Account to make that AST. In order to cancel an AST, Company must notify BBVA Compass in writing within at least two (2) Business Days prior to the next date on which an AST will be made to cancel the AST.

14. **Identifying Information.** Company understands and agrees that all wire transfers shall be executed on the basis of the following information provided by Company in its payment order (which is referred to collectively as "Identifying Numbers"): (i) account

number or other identifying number for the beneficiary or, for Drawdown Wire Transfer Requests, receiver of the wire transfer; and (ii) the identifying number for any bank to, from or through which the funds are to be sent (a **"Receiving Bank"**). BBVA Compass and any other bank processing the payment order for wire transfer (a **"Processing Bank"**) may rely solely on the Identifying Numbers that Company provides in its order, regardless of whether Company's order also identifies the beneficiary, receiver or Receiving Bank by name, and neither BBVA Compass nor any Processing Bank has any obligation to confirm that any Identifying Number applies to any named beneficiary, receiver or Receiving Bank or to identify any discrepancy between any Identifying Number and the name provided by Company for any beneficiary, receiver or Receiving Bank. The foregoing is intended to be consistent with and subject to the terms and provisions of Sections 4A-207 and 4A-208 of the UCC, except that knowledge (whether actual or constructive) by BBVA Compass of any discrepancy or inconsistency in the information provided in connection with any payment order for a wire transfer shall not change or impair the right of BBVA Compass to execute a payment order for a wire transfer as provided in this subsection. Neither BBVA Compass nor any Processing Bank shall have any liability for executing any payment order, even if it has knowledge of the discrepancy or inconsistency.

15. **Confirmations.** If offered by BBVA Compass in its discretion, Company may elect to receive from BBVA Compass an automated confirmation message that BBVA Compass has received and executed a payment order for a wire transfer from any of the Company Accounts designated by Company (**"Automated Confirmation"**). If Company elects to receive Automated Confirmations, it shall provide BBVA Compass with a list of the Company Accounts for which the Company elects to receive Automated Confirmation and a telephone facsimile number and/or e-mail address to which BBVA Compass will send the Automated Confirmations, shall diligently monitor the Automated Confirmations received from BBVA Compass, and will act upon the information in a responsive manner. Company agrees that, even though facsimile and e-mail notices are commonly used for many business communications, BBVA Compass cannot guarantee the security or delivery of such notice, and BBVA Compass will have no liability: (1) for any delays or failure in providing this facsimile or e-mail notice to Company, (2) if the facsimile or e-mail notice is intercepted and altered and/or forwarded to any party other than Company, or (3) if the e-mail is infected with intrusive or destructive programs during the delivery process.
16. **Termination.** Notwithstanding any provision of this Agreement to the contrary, BBVA Compass may terminate Company's use of this Service at any time and without any prior notice to Company.
17. **Additional Security Procedures for Wire Transfers.** Company shall require Authorized Wire Users to use one of the following security procedures to initiate a wire transfer through th Compass e-Access. If Company does not request Authentication Tokens to be issued to Authorized Wire Users, One Time Pass Codes must be used to initiate wire transfers.

- One Time Passcodes. Authorized Wire Users may set up the process to receive an authorization code to verify each wire transfer request, which will be good for one online session and will be delivered to the Authorized Wire User via email, text message or automated voice telephone call ("One Time Passcode"). BBVA Compass shall not be liable to Company for any damages arising from or related to BBVA Compass' delay or failure to provide a One Time Passcode if such delay or failure results from any cause beyond the reasonable control of BBVA Compass or its Service Provider, or from the failure by Company or the Authorized Wire User to provide BBVA Compass with accurate and/or complete delivery instructions. Company acknowledges that BBVA Compass cannot guarantee the security or delivery of any e-mail, text message or cellular telephone call and agrees that,

with respect to any One Time Passcode provided by e-mail, text message or cellular telephone call, BBVA Compass shall not be liable to Company (1) for any delay or failure in providing the e-mail, text message or cellular telephone call to the Authorized Wire User, (2) if the e-mail, text message or cellular telephone call is intercepted, altered and/or forwarded to any party other than the Authorized Wire User, or (3) if the e-mail, text message or cellular telephone call is infected with intrusive or destructive programs during the delivery process.

- Company agrees to instruct each Authorized Wire User utilizing One Time Passcodes (i) not to request that One Time Passcodes be sent to unsecure devices, and (ii) to maintain the confidentiality and security of the process to initiate a One Time Passcode and of any devices that may receive a One Time Passcode (including, but not limited to, computers, email accounts and cellular telephones).
- Authentication Token. Authorized Wire Users may receive a physical token to receive authorization codes to initiate wire transfers ("Authorization Token"). BBVA Compass will provide each Authorized Wire User who is issued an Authentication Token with a unique user identification code ("Wire User ID"). Each Authorized Wire User utilizing an Authentication Token is required to select a personal identification number ("Personal ID") when first using this ACH Transactions, and to change that Personal ID periodically when prompted thereafter. If any Authorized Wire User utilizing a Authentication Token does not select a Personal ID within ninety (90) days after receipt of the Authentication Token, BBVA Compass may disable the token.
- Company agrees to instruct each Authorized Wire User utilizing an Authentication Token (i) to maintain the confidentiality and security of the Wire User ID or Personal ID, and not to disclose this ID; (ii) to safeguard the security of the token; and (iii) immediately to notify BBVA Compass if the token is lost and/or stolen.
- If Company is utilizing the Host to Host Service, Company agrees to follow the security procedures set forth in the Agreement and the User Guides for such Service.

Company agrees to be bound by any wire transfer initiated in compliance with the additional security procedures and devices described above, which are part of the "Security Codes" described in the Provisions for Online Services. Company agrees to hold harmless BBVA Compass from and against any loss caused by the failure by any Authorized Wire User to select, change, or to maintain the confidentiality of the Wire User ID, Personal ID, and/or by the request that a One Time Passcode be sent to an unsecure device. Company expressly assumes the risk of loss with respect to any wire transfer initiated using any One Time Passcode, Authentication Token, Wire User ID or Personal ID that has not been maintained and/or protected according to the terms of this Agreement.

18. **Security Codes.** For each Online Service, Company's Authorized Administrator and/or each Authorized User may be required to select or create one or more alphanumeric codes, images, phrases, questions with a matching answer, or to use other types of security techniques or devices (including without limitation, all of which are referred to together and separately as the "Security Codes." The Security Codes issued to or to be used by Company's Authorized Administrators and/or Authorized Users are referred to as "Company's Security Codes." The specific kinds of Security Codes established for use with an Online Service are described in the Service Instructions for that Service provided to Company. BBVA Compass will require use of the Security Codes to gain access to each Online Service, and no Authorized Administrator or Authorized User will be allowed to

access an Online Service without using the appropriate Security Codes. From time to time, BBVA Compass may require the Authorized Administrator or Authorized Users to select, create or use different Security Codes and may change the types of Security Codes used to access any Online Service. Company agrees that use of the Security Codes will authenticate the identity of each Authorized Administrator and Authorized User and verify the instructions about a Service provided to us.

19. Company also agrees that BBVA Compass may send notices and other communications about its security techniques and Company's Security Codes, including designations and confirmations of specific Security Codes, to Company's current address and/or e-mail address shown on BBVA Compass's records. Company also agrees that BBVA Compass will not be responsible or liable to Company in any way if information is intercepted by an unauthorized person, either in transit or at Company's place of business.
20. In order to prevent unauthorized access to Company Accounts and unauthorized use of any Online Service, Company agrees to maintain the confidentiality and security of the Security Codes, and to instruct each Authorized Administrator and Authorized User also to maintain the confidentiality and security of the Security Codes. Company agrees to notify BBVA Compass immediately if Company believes any Security Codes may have become subject to unauthorized use. BBVA Compass will have no liability to Company for any unauthorized payment or transfer initiated using Company's Security Codes that occurs before Company has notified BBVA Compass of possible unauthorized use and BBVA Compass has had a reasonable opportunity to act on that notice. BBVA Compass may suspend or cancel Company's Security Codes even without receiving such notice from Company if BBVA Compass suspects Company's Security Codes are being used in an unauthorized or fraudulent manner. Company also agrees to review promptly each statement and other report that Company receives from BBVA Compass for any Company Accounts accessed through an Online Service in order to detect any unauthorized transactions. Company recognizes that anyone possessing the Security Codes may access Company Accounts and, depending on the Online Service, may be able to initiate transactions on those Accounts. Company agrees that it is responsible for maintaining the confidentiality and security of all Company's Security Codes, and for implementing the necessary internal controls, balancing and reconciliation functions, and audit procedures to protect all Company Accounts from theft or misuse.
21. **Commercially Reasonable Security Procedures.** Company agrees that the use of the Security Codes that BBVA Compass has established for each Online Service constitutes a commercially reasonable security procedure for Company. Company agrees to be bound by all requests, communications, or other instructions to BBVA Compass that are initiated using this security procedure (including any transfer requests, payment requests, stop payment orders and, if applicable, payment orders and requests for cancellation or amendment of payment orders for ACH entries and wire transfers), regardless of whether or not Company or any Authorized User actually authorized the instruction. If any instruction initiated through an Online Service and accepted by BBVA Compass in compliance with this security procedure contains any error, to the full extent allowed by law Company shall be liable for, and shall indemnify BBVA Compass against any claims, losses and expenses BBVA Compass may incur that arise from or relate to the erroneous instructions. BBVA Compass's records demonstrating compliance with this security procedure will be deemed conclusive proof that the payment order received by BBVA Compass was authorized and that Company is bound by those instructions.
22. **Company's Liability.** Company agrees that BBVA Compass is entitled to rely on and deem the use of Company's Security Codes to gain access to any Online Service as Company's authorization for every transaction involving any Company Account until Company has notified BBVA Compass of any

possible unauthorized use or transactions. Neither BBVA Compass nor its Service Providers or affiliates will have any liability to Company for any unauthorized payment or transfer made using Company's Security Codes that occurs before Company has notified BBVA Compass of possible unauthorized use and BBVA Compass has had a reasonable opportunity to act on that notice. Authorization of transfer requests and payment requests made through any Online Service by means of Company's Security Codes shall be considered the same as Company's signed authorization and instruction for BBVA Compass to perform any and all actions relating to the requested transaction. Company agrees to be bound by any transaction on any Company Accounts using an Online Service that is initiated by means of Company's Security Codes and accepted by BBVA Compass in accordance with the security procedure outlined in this Agreement (including the applicable Service Instructions), regardless of whether or not Company actually authorized the transaction. Company agrees not to attempt to use, and to instruct its Authorized Administrators and Authorized Users not to use any Online Service if there is any reason to believe this Service is not functioning properly.

POSITIVE PAY SERVICES

Upon Company's submission of a request for Positive Pay Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Definitions.** For purposes of the services described in this section, the following words or terms have the designated meanings:
 - (a) "Available Funds" means funds on deposit in a Designated Account and available for withdrawal in accordance with BBVA Compass' applicable funds availability schedule.
 - (b) "Check Report" means a report provided by Company describing checks drawn by the Company (or its authorized agent) on a Designated Account, which
 - (i) includes the exact and complete date, check number, and amount of each Presented Check drawn on a Designated Account on the previous day;
 - (ii) is received by BBVA Compass in the format and medium, by the deadlines, and at the place(s) specified in BBVA Compass' procedures for Positive Pay Services; and
 - (iii) is authorized by the Company or is verified by BBVA Compass in compliance with the security procedures provided in BBVA Compass' procedures for Positive Pay Services.
 - (c) "Designated Account(s)", for the purposes of Positive Pay Services, means the account or accounts of the Company maintained at BBVA Compass and designated in the Service Instructions for Positive Pay Services. BBVA Compass shall provide Positive Pay Services only with regard to Designated Accounts of Company.
 - (d) "Exception Check" means a Presented Check that does not match a check included in a Check Report.
 - (e) "Exception Report" means one of the following reports describing Exception Checks.
 - (i) Online Positive Pay Report – exception checks available via the internet through Compass e-Access Services.
 - (ii) Image Positive Pay Report – exception checks and corresponding images available via the internet through Compass e- Access Services.

- (iii) Manual Positive Pay Report – exception checks available via fax.
 - (f) "Payment Instructions" means instructions by the Company to BBVA Compass ordering BBVA Compass to pay or return checks specified by Company, which instructions specify the exact and complete dates, check numbers and amount of the checks, and which instructions are received by BBVA Compass in the format and medium, and by the deadline, specified by BBVA Compass' procedures for Positive Pay Services provided to Company.
 - (g) "Presented Check" is a check apparently drawn by the Company on a Designated Account and presented to BBVA Compass for payment through the check collection system.
 - (h) "Presented Check List" means a list provided to Company by BBVA Compass, by the applicable deadline, and at the place(s) specified in BBVA Compass' procedures for Positive Pay Services, which describes the Presented Checks presented against a Designated Account the previous day, including the date, check number, and amount (as encoded) of each Presented Check.
 - (i) All capitalized and defined terms in the General Provisions shall have the meanings provided for in the General Provisions. All other terms, not otherwise defined in these terms and conditions for Positive Pay Services or in the General Provisions, shall have the meanings set forth in Articles 3 and 4 of the Uniform Commercial Code, as adopted in the state in which BBVA Compass maintains Company's accounts ("UCC").
2. **Other Agreements.** Checks presented to BBVA Compass over-the-counter may not be subject to these terms and conditions regarding Positive Pay Services. Except as specifically provided in this Agreement, all other account agreements and all fees and charges relating to Designated Accounts remain applicable to the Designated Accounts, and BBVA Compass' remedies set forth in those agreements are cumulative.
3. **Positive Pay Services.** BBVA Compass will provide the Positive Pay Services for the Designated Accounts specified by Company. On each banking day, Company agrees to provide BBVA Compass a Check Report ("Issue File") by 6:00 p.m. Central Time. Company agrees to provide a Check Report ("Issue File") before disbursing checks to payees. Failure to send a Check Report ("Issue File") prior to disbursement could result in checks presented for payment that do not have a corresponding issue on file, thus these checks will be treated as "exception items" and be included in the Exception Report as "paid-no-issues (PNI)." **Company must give BBVA Compass no less than twenty four (24) hours notice prior to submitting its first Issue File. If twenty four hours notice is not given prior to the first Issue File's submission, the Positive Pay Services will not be activated.** There is a fee levied by BBVA Compass for every exception item reported. BBVA Compass shall compare each Presented Check by check number and amount (as encoded) against all Check Reports received through that day. BBVA Compass shall (a) finally pay and charge to the applicable Designated Account all Presented Checks which match checks on the Check Reports as to check number and amount, provided that the Designated Account has sufficient Available Funds; and (b) unless service is disrupted or delayed for operational reasons, provide Company with an Exception Report by 9:30 a.m. Central Time on the following business day. Company shall provide BBVA Compass with Payment Instructions regarding the Exception Checks by 12:00 p.m. local time ("Disposition Deadline") on the same day. Local time is determined by the time zone of the location where the account is held. If Company fails to meet this deadline, Company authorizes and directs BBVA Compass to pay the

Exception Checks if the Designated Accounts upon which they are drawn have sufficient Available Funds, unless BBVA Compass determines in its sole discretion that an Exception Check is not or may not be properly payable. If Company sends in Payment Instructions after the Disposition Deadline and would like a particular check returned, BBVA Compass will attempt to honor the return but if the presenting bank fails to honor the return, the Company must reimburse BBVA Compass for the amount of the item and hold BBVA Compass harmless from any cost, suits, expenses, liabilities, damages and attorney's fees related to the return of the item.

4. Warranties and Remedies.

- (a) Checks Paid Under Agreement. With respect to any check paid by BBVA Compass in accordance with this Agreement:
 - (i) Company waives and releases any claim that the check is not properly payable, with respect to any drawer's signature(s) on, or alteration of the amount of, the check; and
 - (ii) If the name of the payee of the check is altered or the check is not properly payable based on a forged endorsement, BBVA Compass, without waiving any defenses under the UCC, shall be accountable for the amount of the check to the extent required by applicable provisions of the UCC, including UCC 4-401.
- (b) Checks Dishonored Under Agreement. With respect to any check dishonored and returned by BBVA Compass in accordance with this Agreement, the Company waives and releases any claim that the check is properly payable and any claim against BBVA Compass for wrongful dishonor under UCC 4-402, any other account agreement between BBVA Compass and Company or otherwise.

5. **Procedures.** From time to time, BBVA Compass shall establish or modify procedures relating to the Positive Pay Services, which procedures may include security procedures and a format for reports and data. The Company agrees to follow and be bound by those procedures. BBVA Compass shall have the right in its discretion to change all or any of the procedures at any time upon prior notice to Company (or without prior notice if BBVA Compass has reason to believe that those changes are necessary to protect the safety or integrity of any account held at BBVA Compass). Notwithstanding the foregoing, BBVA Compass will use reasonable efforts to notify Company of any change in the procedures at least ten (10) days prior to any change.

6. **Information.** Company hereby assumes all risk and responsibility for the compilation, accuracy, transmission and delivery of any and all information or data, including, without limitation, any Check Report or Payment Instructions delivered by Company to BBVA Compass. BBVA Compass shall have no obligation to insure the receipt or accuracy of any information or data furnished by Company in connection with Positive Pay Services, and shall have no obligation to make any inquiry or initiate any follow-up investigation regarding the receipt or accuracy of any such information or data. Company hereby authorizes BBVA Compass, without investigation or inquiry, to rely and act upon the contents of any information or data received from Company which BBVA Compass reasonably believes is authorized by Company. Company is solely responsible for assuring that the Check Report is in the format required by, and otherwise complies with, the procedures for Positive Pay Services.

7. **UCC Article 4 and Regulation CC.** In accordance with Section 4-103 of the UCC, this Agreement shall vary the effect of any provisions of Article 4 of the UCC and of Regulation CC (12 C.F.R. Section 229.1 et seq.) which are inconsistent with this Agreement.

8. **No Extension of Credit.** Nothing herein nor any course of dealing between the Company and BBVA Compass constitutes a commitment or obligation of BBVA Compass to lend money to the Company or obligates BBVA Compass to extend any credit to the Company, to make a loan to the Company, or otherwise to advance funds to the Company to pay for any check contrary to BBVA Compass' published availability schedules. If BBVA Compass pays a check when Company has insufficient funds in a Designated Account, Company shall immediately pay and reimburse BBVA Compass for the resulting overdraft.

REVERSE POSITIVE PAY SERVICES

Upon Company's submission of a request for Reverse Positive Pay Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Definitions.** For purposes of the service described in this section, the following words or terms have the designated meanings:
 - (a) "Available Funds" means funds on deposit in a Designated Account and available for withdrawal in accordance with BBVA Compass' applicable funds availability schedule.
 - (b) "Check Report" means a report provided by BBVA Compass by 7:00 a.m. Central Time (Online or Image Reverse Positive Pay) or 8:30 a.m. Central Time (Manual Reverse Positive Pay), describing checks presented on a Designated Account the previous business day, which
 - (i) includes the date, check number, and amount of each Presented Check presented on a Designated Account on the previous day; and
 - (ii) is received by BBVA Compass from the bank of first deposit and is not "scrubbed" (meaning it may contain encoding errors); and
 - (c) "Designated Account(s)", for the purposes of the Reverse Positive Pay Services, means the account or accounts of the Company maintained at BBVA Compass and designated in the Service Instructions for Reverse Positive Pay Services. BBVA Compass shall provide Reverse Positive Pay Services only with regard to Designated Accounts of Company.
 - (d) "Exception Check" means a Presented Check that Company instructs BBVA Compass return to the bank of first deposit or to not pay.
 - (e) "Exception Report" means describing Exception Checks.
 - (i) Online Reverse Positive Pay Report – exception checks available via the internet through Compass e-Access Services.
 - (ii) Image Reverse Positive Pay Report – exception checks and corresponding images available via the internet through Compass e-Access Services.
 - (iii) Manual Reverse Positive Pay Report – exception checks available via fax.
 - (f) "Payment Instructions" means instructions by the Company to BBVA Compass ordering BBVA Compass to pay or return checks specified by Company, which instructions specify the exact and complete dates, check numbers and amount of the checks, and which instructions are received by BBVA Compass in the format and medium, and by the deadline, specified by BBVA Compass' procedures for Reverse Positive Pay Services provided to Company.

- (g) "Presented Check" is a check apparently drawn by the Company on a Designated Account and presented to BBVA Compass for payment through the check collection system.
- (h) All capitalized and defined terms in the General Provisions shall have the meanings provided for in the General Provisions. All other terms, not otherwise defined in these terms and conditions for Reverse Positive Pay Services or in the General Provisions, shall have the meanings set forth in Articles 3 and 4 of the Uniform Commercial Code, as adopted in the state in which BBVA Compass maintains Company's accounts ("UCC").

2. **Other Agreements.** Checks presented to BBVA Compass over-the-counter may not be subject to these terms and conditions regarding Reverse Positive Pay Services. Except as specifically provided in this Agreement, all other account agreements and all fees and charges relating to Designated Accounts remain applicable to the Designated Accounts, and BBVA Compass' remedies set forth in those agreements are cumulative.
3. **Reverse Positive Pay Services.** BBVA Compass will provide the Reverse Positive Pay Services for the Designated Accounts specified by Company. On each banking day, BBVA Compass agrees to provide Company with a list of checks presented for payment the previous day. The Online or Image Reverse Positive Pay report will be available by 7:00 a.m. Central Time and the Manual Reverse Positive Pay report will be available by 8:30 a.m. Central Time. Company shall compare each Presented Check by check number and amount against their check issue information and notify BBVA Compass of any checks that need to be returned. Company shall notify BBVA Compass, in writing, of items to be returned no later than 12:00 p.m. local time for Online or Image Reverse Positive Pay and 12:00 p.m. Central Time for Manual Reverse Positive Pay. Local time is determined by the time zone of the location where the account is held. BBVA Compass shall finally pay and charge to the applicable Designated Account all Presented Checks which are not on the list of returned checks, provided that the Designated Account has sufficient Available Funds. Presented Checks listed as "return" by the Company will be returned by BBVA Compass to the bank of first deposit, provided that Company provides return instructions within the specified deadline. If Company fails to meet the deadline for notification of returned checks, Company authorizes and directs BBVA Compass to pay the Presented Checks if the Designated Accounts upon which they are drawn have sufficient Available Funds, unless BBVA Compass determines in its sole discretion that a Presented Check is not or may not be properly payable. If Company sends in Payment Instructions after the Disposition Deadline and would like a particular check returned, BBVA Compass will attempt to honor the return but if the presenting bank fails to honor the return, the Company must reimburse BBVA Compass for the amount of the item and hold BBVA Compass harmless from any cost, suits, expenses, liabilities, damages and attorney's fees related to the return of the item.
4. **Warranties and Remedies.**
 - (a) **Checks Dishonored Under Agreement.** With respect to any check dishonored and returned by BBVA Compass in accordance with this Agreement, the Company waives and releases any claim that the check is properly payable and any claim against BBVA Compass for wrongful dishonor under UCC 4-402, any other account agreement between BBVA Compass and Company or otherwise. If BBVA Compass acts in accordance with the agreement in paying Positive Pay items, it will be deemed to have exercised ordinary care, as defined by articles 3 and 4 of the UCC.
 - (b) Company agrees to indemnify and hold BBVA Compass harmless from any and all liabilities, claims and expenses of any kind or nature whatsoever for any encoding errors

- in the Check Report, any missed deadlines for returning checks or otherwise arising out of its use of the Reverse Positive Pay Services (including the reasonable fees and disbursements of counsel in connection with any investigative, administrative, or judicial proceeding, whether or not any indemnified person shall be designated a party thereto); provided that Company shall have no obligation to any indemnified person hereunder with respect to any such liabilities, claims or expenses arising from the gross negligence or willful misconduct of such indemnified person.
5. **Procedures.** From time to time, BBVA Compass shall establish or modify procedures relating to the Reverse Positive Pay Services, which procedures may include security procedures and a format for reports and data. The Company agrees to follow and be bound by those procedures. BBVA Compass shall have the right in its discretion to change all or any of the procedures at any time upon prior notice to Company (or without prior notice if BBVA Compass has reason to believe that those changes are necessary to protect the safety or integrity of any account held at BBVA Compass). Notwithstanding the foregoing, BBVA Compass will use reasonable efforts to notify Company of any change in the procedures at least ten (10) days prior to any change.
 6. **Information.** Company hereby assumes all risk and responsibility for the compilation, accuracy, transmission and delivery of any and all information or data, including, without limitation, any Payment Instructions delivered by Company to BBVA Compass. BBVA Compass shall have no obligation to insure the receipt or accuracy of any information or data furnished by Company in connection with Reverse Positive Pay Services, and shall have no obligation to make any inquiry or initiate any follow-up investigation regarding the receipt or accuracy of any such information or data. Company hereby authorizes BBVA Compass, without investigation or inquiry, to rely and act upon the contents of any information or data received from Company which BBVA Compass reasonably believes is authorized by Company. Company is solely responsible for assuring that the Payment Instructions are in the format required by, and otherwise complies with, the procedures for Reverse Positive Pay Services.
 7. **UCC Article 4 and Regulation CC.** In accordance with Section 4-103 of the UCC, this Agreement shall vary the effect of any provisions of Article 4 of the UCC and of Regulation CC (12 C.F.R. Section 229.1 et seq.) which are inconsistent with this Agreement.
 8. **No Extension of Credit.** Nothing herein nor any course of dealing between the Company and BBVA Compass constitutes a commitment or obligation of BBVA Compass to lend money to the Company or obligates BBVA Compass to extend any credit to the Company, to make a loan to the Company, or otherwise to advance funds to the Company to pay for any check contrary to BBVA Compass' published availability schedules. If BBVA Compass pays a check when Company has insufficient funds in a Designated Account, Company shall immediately pay and reimburse BBVA Compass for the resulting overdraft.
- Service Instructions for Vault Services (the "Vault") and receive Change Orders (as defined below) from BBVA Compass.
2. **Deposits.** Prior to making a deposit the customer shall:
 - (a) Insert the cash and checks, coins and other items for deposit in a polyseal bag or other kind of bag BBVA Compass may require (the "Bag") accessible only by Company and BBVA Compass.
 - (b) Clearly indicate the amount of cash, coin, etc., each Bag contains a complete deposit ticket, in duplicate, itemizing cash and checks and other items intended for credit to the Company's account (NOTE: Checks are to be endorsed "For Deposit Only").
 - (c) Seal the Bag and take all such precautions as may be necessary or appropriate to ensure that the Bag is secure and to prevent unauthorized persons from having access thereto.
 3. **Delivery.** Upon delivery of each Deposit, the Company's Transporter shall abide by all rules and regulations relating to security at the Vault and surrounding areas (the "Safety and Security Rules"), whether or not the same have been previously communicated to the Company or the Transporter. Company agrees that the Safety and Security Rules are subject to change without notice at any time. Company agrees that BBVA Compass reserves the right to refuse to conduct business with any Transporter for any reason and that failure of a Transporter to abide by the Safety and Security Rules may result in immediate termination of the Company's Vault Services and/or any other action BBVA Compass may deem necessary or appropriate.
 4. **Receipt of Deposit.** On the day of the Company's or its designated Transporter's delivery of a Deposit to the Vault and BBVA Compass' receipt and acceptance thereof, BBVA Compass is authorized and instructed by Company to:
 - (a) Open the Bag(s) and verify the amount(s) of the Deposit(s).
 - (b) Process the Deposit(s) for credit to the Company's account(s) in accordance with the Company's deposit agreement subject to applicable law (collectively "Deposit Rules"). Deposits of coin will be subject to verification up to twenty-four hours from the time of the relevant Deposit except as is otherwise required by applicable Deposit Rules. If the amount of the Deposit as determined by BBVA Compass is different from the amount indicated by the relevant deposit ticket or otherwise for deposit, BBVA Compass will prepare and process an adjustment entry for the amount of the difference pursuant to the "Outage" provisions below.
 - (c) Provide the Company an advice of the transaction(s), except as noted above.
 - (d) If there are any defects or damage or any evidence of tampering to a Bag, BBVA Compass may, in its sole discretion, refuse to accept the same for deposit. The cost of replacement of any Bag shall be borne by the Company.
 5. **Change Orders.** The Company may request United States currency and/or coin (a "Change Order") by contacting an authorized BBVA Compass representative at the Vault. If BBVA Compass has sufficient currency and/or coin available, the Company's designated Transporter may retrieve, such Change Order at the Vault. BBVA Compass is hereby authorized to debit the Company's account for the amount of any such Change Order. Notwithstanding the foregoing, in lieu of debiting Company's Account, BBVA Compass may, in its sole discretion, allow Company to make a cash settlement for a Change Order within twenty-four hours of BBVA Compass' delivery of the Change Order.

VAULT SERVICES

Upon Company's submission of a request for Vault Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees:

1. **Transportation.** The Company is required to employ a bonded and licensed armored carrier ("The Transporter"), to provide transportation of deposits of cash, checks, coins, and other items ("Deposits") from Company's place(s) of business and other locations to the BBVA Compass vault identified in the

6. **Records.** BBVA Compass may, record electronic requests for (including but limited to Change Orders) by Company. Such recordings and BBVA Compass' other records shall evidence a Company's Change Order request and its other transactions with BBVA Compass, including, without limitation, the amount of any Change Order or other transaction. BBVA Compass shall not be required to investigate the reasonableness or authorization for any Change Order, any transaction, or request for any other service.
 7. **Outage.** In the event that the amount the Company has indicated for deposit does not equal the actual amount of the Deposit determined by BBVA Compass (an "Outage"), BBVA Compass is hereby authorized to: execute a Deposit Correction Form, Debit Memo, and/or Credit Memo and, if applicable, debit (or credit) Company's account, as appropriate, to reflect the accurate amount of the Deposit. In lieu thereof however BBVA Compass may in its sole discretion, abide by any special instructions with respect to such Outages provided for on the Special Instructions Addendum executed by Company, if any. However, nothing therein and no course of dealing shall be construed as prohibiting BBVA Compass from executing a Deposit Correction Form, Debit Memo and/or Credit Memo and, if applicable, correcting the Company's deposit slip and debiting (or crediting) Company's account, as appropriate.
 8. **Limitation on Liability.** The Vault Services are provided by BBVA Compass as a convenience to and at risk of the Company, and BBVA Compass shall have no duty liability or responsibility to Company or its designated Transporter until its actual receipt of a Deposit.
 9. **Company** agrees and warrants that it will order, deposit, or request delivery of currency or coin to or from BBVA Compass only for its own purposes and not for or on behalf of any other person.
 10. **Business Class QuickDrop Deposits.** Upon Company's submission of a request for Vault Services that include Business Class QuickDrop Deposit Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees as follows:
 - (a) **Deposit Receipt.** Bank agrees to accept deposits without immediately verifying the amount of cash and checks contained in the deposit (the "Unverified Deposit"). Bank will issue a receipt reflecting the amount of the deposit as set forth on Company's deposit ticket.
 - (b) **Deposit Verification.** Bank shall have 3 business days from any Unverified Deposit to verify the amount of cash or checks, or both, contained in the Unverified Deposit. Upon verification, the Bank will make any and all adjustments in the Company's account to reflect the actual amount of the Unverified Deposit if the same differs from the amount set forth on the Company's deposit ticket. The Bank's determination of the amount of the Unverified Deposit is presumptively conclusive. Company shall have the evidentiary burden to prove that the Bank's verification and determination of the amount of any deposit is incorrect.
 - (c) **Risk of Loss.** Bank shall have no responsibility for any cash or any items contained in any deposit until the deposit is actually received by an employee of the Bank at one of the Bank's depository locations. The Company shall bear entirely the risk of loss for any deposit until delivered to the bank as contemplated in this subparagraph (c).
1. **Account Services.** BBVA Compass shall establish one or more demand deposit accounts (each a "Zero Balance Account"), and a separate demand deposit account (the "Master Account"), which may be the Company Account, as defined in this Agreement. At the close of each banking day, BBVA Compass shall create a zero balance in each Zero Balance Account by depositing funds from or transferring funds to the Master Account. Company agrees to maintain in the Master Account and Zero Balance Accounts at all times and in collected, immediately available funds, an aggregate amount sufficient to pay all charges to and checks or other items presented against each Zero Balance Account and Master Account. Company authorizes and directs BBVA Compass, at any time and without prior notice to Company, to transfer to each Zero Balance Account from the Master Account, or other deposit accounts of Company maintained at BBVA Compass, funds in the amount sufficient to pay any checks, items or charges presented against or payable from each Zero Balance Account. Upon prior written agreement with BBVA Compass, Company may add, remove, or change the designation of an account as a Zero Balance Account or BBVA Compass may make any changes without prior notice to Company.
 1. **Items Drawn on Zero Balance Account.** All items drawn on or presented in connection with Zero Balance Accounts must be in a format approved by BBVA Compass and shall contain such routing transit numbers and other information required by BBVA Compass. Specifically, all items will be printed on MICR-Bond paper, having a minimum weight of 24 pounds. The magnetic encoding on each item will include correct routing number, account number and serial number. Company will provide a sample of checks and deposit slips (as directed on the check printing specifications) to BBVA Compass from each check printing, including subsequent reorders, for the purpose of testing MICR quality.
 2. **Overdrafts.** If at any time the Master Account, after deducting any amounts payable from or chargeable to the Master Account, fails to contain collected, immediately available funds in the amount required to pay the total aggregate amount of checks, items and charges payable against or chargeable to the Master Account and each Zero Balance Account, the Company shall be liable for BBVA Compass' demand deposit checking account "insufficient funds" charges as in effect from time to time and BBVA Compass may, in its sole discretion, do any one or more of the following:
 - (a) Pay in any order any or all of the checks, items, or charges and charge the amount of any payment to the applicable account thereby causing an overdraft to be created in the account subject to BBVA Compass' overdraft policies and charges; or
 - (b) Dishonor in any order any or all of the checks or items and return the same to the presenter, in which case the policies, charges, and rules provided for in BBVA Compass' deposit agreement shall apply, including but not limited to, provisions in the deposit agreement relating to insufficient funds and returns policies or charges

ZERO BALANCE ACCOUNT SERVICES

Upon Company's submission of a request for Zero Balance Account Services and the approval of the Service Instructions for this service, or upon its use of the service, whichever occurs first, Company agrees: